Response to Comments

CHAPTER 15. ORGANIZATION COMMENTS

Comment Letter O001 (Richard Cline, Peninsula Cities Consortium (PCC), April 2, 2010)

O001

Peninsula Cities Consortium (PCC)

April 2, 2010

Dan Leavitt, Deputy Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Subject: Request for 30 Day Extension of the Comment Period for the Revised Draft Program EIR for the Bay Area to Central Valley

Dear Mr. Leavitt:

The Peninsula Cities Coalition (PCC) requests an extension of the comment period from 45 to 75 days for the Revised Draft Program EIR. This extension will allow greater involvement of the stakeholders in our five communities.

There is tremendous interest in the High Speed Train Project and our constituents need time to fully understand the conclusions of the DEIR. The additional time would provide for a more inclusive outreach process resulting in more thoughtful comments to the Authority. O001-1

Please respond as soon as possible to this request so that we may plan our outreach efforts accordingly.

Sincerely,

Richard Cline
Chair, Peninsula Cities Coalition

Response to Letter O001 (Richard Cline, Peninsula Cities Consortium (PCC), April 2, 2010)

O001-1

The commenter requests a 45-75 day extension of the 45-day comment period. Consistent with CEQA requirements, the Authority has provided a 45-day public comment period under CEQA, from March 11, 2010, to April 26, 2010. The Authority has not extended the comment period beyond April 26, 2010, however, it did make the Revised Draft Program EIR Material publicly available on March 4, 2010, a week before the 45-day public comment period commenced on March 11, 2010. The document has therefore been available to the public for a total of 52 days

Comment Letter O002 (Jerry S. Wilmoth, Union Pacific, April 23, 2010)

O002

Jerry Wilmoth
General Manager Network Infrastructure

April 23, 2010

APR 27 2010

Dan Leavitt
Deputy Director
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, California 95814

Attn: Bay Area to Central Valley Revised Draft Program EIR Material Comments

Dear Mr. Leavitt:

In accordance with Section 1.3 of the revised draft program EIR identified above, dated March 4, 2010, Union Pacific Railroad Company submits the following comments regarding the revisions set forth in said revised EIR. O002-1

All of Union Pacific's previous written comments and objections submitted to the Authority, for this program segment and all other project and program segments, including the Union Pacific letters attached to the revised EIR, are incorporated herein and remain fully valid and effective.

Chapter 2 – Revised Project Description and Revised Impact Analysis:

San Jose to Gilroy

San Jose (Diridon) to Lick – Union Pacific previously has advised the Authority that it must have no less than twenty-five feet (25') clear and available from right of way line to center line of the No. 1 main track (the UPRR freight and Amtrak track). It appears from the drawings in Chapter 2 of the revised EIR that in some locations, UP's No. 1 main line would be pushed eastward with less than fifteen feet (15') available. This will severely impact our mechanized maintenance functions and greatly hinder our ability to clear derailments. The Authority's plans allowing less than the required twenty-five feet (25') in this segment need to be revised. O002-2

Lick to Gilroy – Chapter 2 of the revised EIR appears to locate the high-speed rail corridor immediately adjacent to UP's east right of way line throughout this segment. The proposed alignment provides no buffer space between the high-speed and freight-Caltrain corridors. Where the high-speed corridor is elevated (such as at Morgan Hill), the edge of the elevated platform or structure will be exactly on UP's extended right of way line. Union Pacific previously has advised the Authority that an alignment that abuts UP's right of way line is unacceptable for two reasons: it is potentially unsafe and it prevents all future rail development on that side of the right of way. O002-3

Where the high-speed corridor is to be located between UP's right of way and Monterey Highway, UP requests that an adequate buffer space be maintained between the nearest high-speed track and UP's right of way line. The width of such buffer space shall meet UP's existing standards, i.e., be no less than fifty feet (50'), and comply with all FRA regulations and requirements. Where Monterey Highway is not adjacent to the high-speed corridor, UP requests that the corridor right of way be separated from its right of way line by at least one hundred feet (100') and meets all FRA regulations. O002-4

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Gilroy Station – Chapter 2 indicates that the Gilroy station will be located on UP's right of way east of the existing Caltrain depot. This property is currently held for commercial or industrial development and will not be made available to the Authority. As shown previously, UP will defend against any legal action to take such property by eminent domain. UP has made this position clear to the Authority (and to the City of Gilroy) on many prior occasions and such position has not changed. O002-5

Altamont Pass Corridor – Union Pacific has not taken any position regarding this alternative corridor and does not do so at this time. UP has previously advised the Authority concerning the potential use of UP's rights of way in the East Bay and over Altamont Pass. Those comments remain operative. O002-6

Chapter 3 – Union Pacific Railroad's Statements.

This chapter of the revised EIR attaches and discusses UP's previous written statements and comments regarding location of the high-speed corridor on its rights of way. The revised EIR does not accurately characterize and summarize UP's position, i.e., that no part of the high-speed corridor may be located on UP's right of way.

The Authority, in preparing the revised EIR, appears to have disregarded UP's statements and position with reference to the alignment of the high-speed corridor in the Lathrop to Merced and Chowchilla to Merced segments. Based on drawings and photographs in the revised EIR, the Authority intends to locate the high-speed corridor either on UP's right of way (either at-grade or elevated) in Manteca, Modesto, Salida, Turlock, Atwater and Merced, or immediately adjacent thereto. This is not acceptable. UP's position has been made clear from the outset of high-speed rail planning and is plainly stated in the letters attached to the revised EIR. O002-7

UP reiterates its position once again: no part of the high-speed rail corridor may be located on (or above, except for overpasses) UP's rights of way at any location. To the extent that the Authority ignores this position, its revised EIR is deficient.

Chapter 4 – Impacts to Union Pacific Freight Operations.

Section 4.1.4 states the Authority's position as follows:

HST alignments will be designed to minimize impacts to existing UPRR business-serving spurs where feasible. The Authority will work with UPRR for those locations where design of the HST alignment may affect these business-serving spurs. The following options will be jointly evaluated in concert with the UPRR: O002-8

- *The HST alignment will be grade-separated (trench, tunnel, or aerial) from the UPRR spur.*
- *The Authority will negotiate with the UPRR to acquire the business-serving spur.*
- *If possible, the spur will be reconstructed soas not to interfere with HST operations.*

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Comment Letter O002 - Continued

With regard to the business implications of acquiring properties adjacent to the railroad operating rights-of-way that may prohibit or reduce the likelihood of future business-serving spurs and associated potential business opportunities for UPRR, the Authority is fully aware that there currently is no prohibition to acquiring property adjacent to existing privately-owned railroad rights-of-way. UPRR will retain authority to serve those businesses on properties or track rights-of-way owned by the UPRR.

Union Pacific's position on the Authority's plans to locate the high-speed corridor immediately adjacent to UP's right of way has been made quite clear in its comments to the Merced-Sacramento Project Level EIR dated February 25, 2010. Those comments are incorporated herein.

To reiterate the main points of UP's position, no part of the high-speed corridor may be located on any rights of way owned or operated by UP, whether at grade or grade separated. For overpasses, all supporting piers must be completely off the right of way. Locating the high-speed corridor immediately adjacent to UP's right of way raises serious safety issues and creates a barrier against any future rail-served development on that side. California's economic and environmental needs cannot be served if future freight rail development is summarily prohibited by high-speed rail. Adequate free property must be provided adjacent to the right of way to allow for such future rail-served development. O002-8 cont.

The Authority's position statement as quoted above is unacceptable to Union Pacific. UP will not negotiate with the Authority regarding sale of right of way or rail spurs. UP will protest against and assist its existing rail-served customers in the event that the Authority attempts to take the property and operations of such customers by eminent domain.

The mitigation strategies suggested by the Authority in Section 4.1.5 are unacceptable to Union Pacific. No part of the high-speed corridor may be located on UP's rights of way. Therefore, mitigation for UP is not an issue. UP will not permit any of its trackage or facilities (such as team tracks) to be taken or relocated.

Union Pacific's Safety Concerns and Objections.

The revised EIR fails to analyze the safety risks inherent in locating the high-speed corridor immediately adjacent to a narrow, 60 or 100-foot-wide, freight rail right of way carrying mainline freight trains at speed. Although Union Pacific and other railroads over the years have made astonishing progress in reducing freight train derailments, major derailments still occur. In most instances, derailments will remain within the confines of the rail right of way, but some derailments may propel rail cars onto the tracks of an adjacent passenger operation. A freight train derailment that coincides with passage of a 200-plus m.p.h. HSR train – which would not have the safety protections of current passenger rail equipment – could result in one of the worst rail accidents in American history, with dozens or even hundreds of fatalities. The chances of such an occurrence would be small, but even small chances, given enough time, become increasingly likely. The Authority must consider, and develop mitigation options, for this risk. These mitigations should O002-9

include moving the high-speed corridor as far from the freight rail tracks as possible and may include FRA-approved crash walls, intrusion detection, and interlocked signal systems. Union Pacific will hold the Authority responsible for a decision that fails to prevent this type of accident. O002-9 cont.

Conclusion and Summary.

Union Pacific has made its position regarding use of its rights of way for the high-speed rail corridor clear on many occasions. Union Pacific objects to location of the high-speed corridor so close to UP's operations as to be a safety hazard. Finally, Union Pacific objects to the location of the corridor so that it takes existing rail-served customers or acts as a barrier to all future rail-served developments. O002-10

Please direct all questions or comments to the undersigned.

Sincerely,

Jerry S. Wilmoth
General Manager – Network Infrastructure

Response to Letter O002 (Jerry S. Wilmoth, Union Pacific, April 23, 2010)

O002-1

The Authority acknowledges receipt of the package of comments for this program segment and all other project and program segments. The Authority asserts that it has had productive meetings with Union Pacific representatives on more than one occasion from and after April 23, 2010. The Authority looks forward to additional meetings to improve the nature and quality of dialogue between the parties during the course of project development.

O002-2

The Authority appreciates the comment and acknowledges the importance of designing a system that meets all federally mandated safety laws and FRA implementing regulations. The Authority states that, consistent with FRA safety regulations, UPRR may consent to clearances of less than 25' feet and acknowledges that UPRR does not typically consent to fifteen foot track clearances in joint operations. The Authority understands that UPRR has, upon occasion consented to track clearances of less than 25' in limited circumstances if certain other safety measures are taken (e.g., speed restrictions, barriers, and/or intrusion detection devices). The Authority has had very preliminary discussions with UPRR regarding the possibility for such waivers in constrained areas and appreciates the opportunity to work with UPRR to refine these areas in good faith.

O002-3

The Authority acknowledges UPRR's position in this segment and affirms that, if the Board determines to continue study of this option at the project level, UPRR's position will be taken into consideration. The Authority affirmatively states that the HST system will be designed in accordance with any and all applicable federally mandated safety laws and FRA implementing regulations, including regulations on buffer space requirements for HSR tracks located outside of UPRR right of way.

O002-4

The Authority acknowledges UPRR's comment. The Authority affirmatively states that the HST system will be designed in accordance with federally mandated safety laws and FRA implementing regulations, including regulations on buffer space requirements for HSR tracks located outside of UPRR right of way.

O002-5

The Authority acknowledges UPRR's comment regarding UPRR right of way east of the existing Caltrain depot and its position that this property will not be made available to the Authority. If the Board determines to continue study of this option at the project level, UPRR's position will be taken into consideration. After the design of this segment has been advanced to a higher level at the project phase, the Authority will be in a better position to define with specificity how much, if any, of UPRR's non-operating property may be necessary for HST. At that time, the Authority will assess whether the intended use of UPRR property would unreasonably interfere with UPRR operations and whether the intended use of UPRR property poses an undue safety risk. The Authority will consider all available options to acquire property necessary to the HST system alignment.

O002-6

The Authority acknowledges UPRR's comments and its position that no part of the HST corridor may be located on UPRR right of way. The Authority and UPRR are in agreement that the system must comply with federally mandated safety laws and FRA implementing regulations. The Revised Draft Program EIR, Chapter 3, provides information and analysis regarding the land use and property effects which will result from an alignment for the HST system which avoids UPRR rights of way for both Pacheco Pass and Altamont Pass network alternatives.

O002-7

The Authority has made every effort to accurately characterize UPRR's prior comments in Chapter 3 of the Revised Draft Program EIR. The Authority acknowledges UPRR's position that no part of the HST corridor may be located on UPRR right of way. If the Board determines to continue study of this option at the project level, UPRR's position will be taken into consideration. After the design of the HST system has been advanced to a higher level, the Authority will be in a better position to define with specificity how much, if any, of UPRR's non-operating property may be necessary for HST. At that time, the Authority will assess whether the intended use of UPRR property would unreasonably interfere with UPRR operations and whether the intended use of UPRR property poses an undue safety risk. The Authority will consider all available options to acquire property necessary to the HST system alignment, including the possibility of UPRR agreeing to consent to HST occupying the property in limited, constrained areas on terms acceptable to UPRR. The Authority appreciates the opportunity to work with UPRR to refine these areas in good faith. The Authority affirmatively states that the system will comply with all federally mandated safety laws and FRA implementing regulations.

O002-8

The Authority acknowledges UPRR's position that it will not permit any part of HST, including overpass supporting piers, to be located on any right of way owned or operated by UPRR. If the Board determines to continue study of this option at the project level, UPRR's position will be taken into consideration. After the design of this segment has been advanced to a higher level, the Authority will be in a better position to define with specificity how much, if any, of UPRR's non-operating property may be necessary for HST. At that time, the Authority will assess whether the intended use of UPRR property would unreasonably interfere with UPRR operations and whether the intended use of UPRR property poses an undue safety risk. The Authority will consider all available options to acquire property necessary to the HST system alignment. The Authority remains committed to work through all such issues with UPRR on a good faith basis.

O002-9

The Authority acknowledges UPRR's safety concerns and objections. The Authority states that safety is its highest priority in designing the HST system and that it will meet all applicable federally mandated safety laws and FRA implementing regulations. Current FRA regulations include equipment safety standards for passenger trains operating at speeds up to 150 mph. FRA is reviewing European and worldwide equipment standards and developing guidance for high-speed trains operating at up to 220 mph. FRA is also exploring improvements and expansions to vehicle and track safety standards through rulemaking. In its November 2009 document titled "High-Speed Passenger Rail Safety Standards" (Standards), the FRA explains in some detail the safety standards which are under review and asserts that FRA will issue proposed and final rules on these safety standards "as soon as possible." In addition to these rules that will be generally applicable to high speed passenger trains, the FRA has indicated its expectation that each HSR operation will be "appropriately tailored to its operating environment" through adoption of a separate rule of particular applicability (RPA) for each HSR operation. The Authority is preparing a detailed technical memorandum to support its application for a RPA, and intends to make such application at an appropriate time. The Authority's petition for a RPA and the technical assumptions underlying the RPA will be available for review and public comment prior to any formal action by FRA. Consistent with FRA's Strategy document, the Authority anticipates that the RPA will consider crashworthiness, crash energy management, vehicle suspension systems, brake systems, train configurations and other elements critical for high-speed train sets, as well as mitigation options such as those suggested by UPRR.

O002-10

The Authority appreciates UPRR's comments and agrees that designing a system that meets all applicable federally mandated safety laws and FRA implementing regulations is of the upmost importance. The Authority affirms its commitment to design, construct and operate a safe system. The Authority also affirms the importance of safe and efficient freight service to the state and

national economy. The Authority is committed to working with UPRR in good faith and to make every effort to arrive at a mutually satisfactory project design.

Comment Letter O003 (Gary A. Patton, Wittwer and Parkin, LLP, April 7, 2010)

O003

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April 7, 2010

Members, Board of Directors
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

RE: Bay Area to Central Valley Program Level EIR

Dear Chairperson Pringle and Board Members:

The purpose of this letter is to urge your Board to make certain that the EIR review process for the Bay Area to Central Valley Revised Draft Program Environmental Impact Report, now underway, will fully comply with the requirements of the California Environmental Quality Act (CEQA).

This firm represents the Planning and Conservation League (PCL) and the Planning and Conservation League Foundation (PCLF) in connection with their California High Speed Rail Project. We also work closely with, and are representing, the Community Coalition on High Speed Rail, a coalition of business people and residents that are concerned about the possible impacts of the proposed High-Speed Rail Project on their local communities. Both PCL and PCLF seek to ensure that any High-Speed Rail system constructed and operated in the State of California will provide positive transportation, clean air, and global warming benefits, without causing unacceptable adverse impacts to the local communities through which the High Speed Rail system travels, and without causing unacceptable adverse impacts to either the natural environment or to the future of commercial agriculture in the State of California. To achieve this kind of High-Speed Rail Project – to make certain that we "do it right," in other words – it is absolutely vital that the environmental review process be properly conducted, and that it fully and fairly comply with the requirements of CEQA. O003-1

As you know, PCL was a Petitioner in the *City of Atherton* case that resulted in the invalidation of the Authority's earlier EIR, and that required the Authority to rescind its earlier approval of the Authority's preferred Bay Area connection to the Central Valley, over Pacheco Pass. Unfortunately, we believe that there is a significant problem in the Authority's current effort to respond to the Court decision in the *City of Atherton* case. By slightly changing its current approach, we believe that the Authority can eliminate this problem, and we urge you to do that. Please consider the following points: O003-2

1. The Authority has (under Court order) rescinded its certification of the Final Environmental Impact Report/Environmental Impact Study for the Bay Area to Central Valley High-Speed Train Project, approving the Pacheco Pass Network Alternative Serving San Francisco and San Jose Termini, and approving preferred alignment alternatives and station location options. O003-3

2. In addition (under Court order), the Authority has rescinded and set aside its earlier decision in favor of the Pacheco Pass Network Alternative and its associated alignment alternatives and station location options.

3. To state the matter differently (and accurately) the Authority does not, currently, have any legal reason to assume that it will, again, choose the same project option it chose last time. The Authority cannot make a decision about what the "best" project is until it complies with CEQA.

4. With respect to the Bay Area to Central Valley connection, there is no certified or adequate EIR, and legally speaking, the Authority cannot have "made up its mind" about what it will actually do. The California Environmental Quality Act absolutely requires that you do a full and fair environmental review, according to the requirements of CEQA, before you make up your mind.

5. The Peremptory Writ of Mandate which commanded the Authority to rescind its earlier certification of an EIR, and commanded it to rescind and set aside its decision on its preferred Pacheco Pass Network Alternative, further commanded the Authority to "revise the Environmental Impact Report/Environmental Impact Statement for the Bay Area to Central Valley High-Speed Train Project in accordance with CEQA, the CEQA Guidelines, and the Final Judgment entered in this case prior to reconsidering certification of that EIR/EIS (emphasis added)." O003-3 cont.

6. By its own terms, and as the Courts have repeatedly interpreted it, CEQA makes absolutely clear that a governmental agency proposing a project must not make a decision on the project until after it has carried out the required environmental review. It is simply not permissible for a governmental agency to use the CEQA process simply to "rationalize" a decision that the agency has already made.

7. This is the fatal flaw in how the Authority is currently responding the Court's commandments. The Authority is acting like the Court approved its choice of alternatives, but quibbled with some of the failures of the earlier document, and directed the Authority to make some "technical corrections" to the document. That is not what the Court did. To reemphasize, what the Court did, in its Writ of Mandate, was to command the Authority to set aside its former decision, and not to make another decision until and unless it has fully complied with CEQA.

8. Right now, the Authority is carrying out a CEQA process that is inconsistent with the requirement that the Authority not "make up its mind" until after it has reviewed an adequate EIR (consisting of the Authority's Draft, public comments on the Draft, and the responses to those public comments).

Comment Letter O003 - Continued

9. Here is evidence that the Authority is not, in fact, reserving its judgment until after a full and fair EIR process:

   a. Because it had to rescind its earlier decision, and has not yet completed a full and fair EIR review, the Authority has no legal basis to assume that it will once again choose the Pacheco Pass/Caltrain Alignment option. Nonetheless, the Authority is spending large amounts of scare money on the details, at the "Project Level," of the Pacheco Pass/Caltrain Alignment option. One cannot help but conclude, since large amounts of money are being expended on a choice that has not, yet, been made legally, that the Authority has actually already made up its mind, and that the current CEQA review is just to "rationalize" the decision already made, prior to the environmental analysis being completed. The Supreme Court of the State of California has specifically rejected this type of approach (in which a precommitment to a project, in advance of CEQA review, is demonstrated by its expenditure of money to support the particular project). See *Save Tara v. City of West Hollywood* (October 30, 2008) 194 P.3d 344. O003-4

   b. The Notice of Availability issued by the Authority, in connection with the current EIR review process, suggests that members of the public should not comment on environmental issues that relate to the decision about what alternative is best, except to the extent that the public comment specifically refers to and references the "revised materials" that the Authority is circulating. This approach does not comply with the Court's commandment to revise the EIR "in accordance with CEQA," since CEQA requires the Authority to respond to all relevant comments related to the environmental impacts of the proposed project. O003-5

   c. The Authority has not circulated a revised Environmental Impact Report/Environmental Impact Statement, as the Court commanded. Instead, the Authority is circulating "Draft Program Environmental Impact Report *Material*." CEQA doesn't have such a category. CEQA requires a three step process: Draft EIR, public comments on the Draft EIR, and responses to the comments.

   d. The Notice of Availability indicates that once the comment period is closed, and after responses are made, the Authority plans to certify "the Revised Final Program EIR *Material* along with the Final Bay Area to Central Valley HST Program EIR for compliance with CEQA." Again, CEQA requires a Final *EIR*, not a document called "Final EIR *Material*." The document that the Authority has already committed to certify, prior to the completion of the environmental review currently underway, is the document previously set aside by order of the Court. Unless it has already made up its mind, the Authority cannot know it will certify that document. It needs to receive and respond to, and then consider the public comments it receives, first. O003-6

   e. The Notice of Availability gives a further demonstration that the Authority has already "made up its mind," in advance of the required environmental review, since it states, as a matter of fact, that the Authority will approve "findings of fact [and] a statement of overriding considerations…." Notice that the Authority does not say that it will approve a statement of overriding considerations "if necessary." How does the Authority know such a statement of overriding considerations will be needed, unless it already knows the project it has decided to approve? The actions that the Notice of Availability says the Authority will "take," when the comment period closes, and after responses are produced, actually is a list of the actions that the Authority should "consider." O003-7

   f. This distinction is not just semantic. The complaint made here goes to the heart of what the CEQA process is all about. CEQA says that a governmental agency cannot, legally, make up its mind about a project until after the project has gone through the environmental review that CEQA requires. The EIR process cannot be turned into a process of simply "rationalizing" the decision that the governmental agency has already made, beforehand. Contrary to what CEQA demands, the process as outlined by the Authority in its Notice of Availability indicates that the Authority has already made up its mind. O003-7 cont.

The Authority can still correct the problem just identified. To do so, the Authority will probably have to extend the current process by about sixty (60) days, much less time than it would take to seek to resolve the concerns expressed here in the courts. O003-8

To correct the problem, the Authority should revise the Notice of Availability to be consistent with CEQA, and to address the issues identified in this letter. Then, it should extend the comment period for at least another forty-five (45) days, under the new "rules," in a new Notice of Availability, that will reflect what CEQA requires. Finally, the Authority needs to respond to any comments received, not seek artificially to restrict comments, or to refuse to respond to comments that don't meet the Authority's preconceived idea that it will definitely do, once again, what it did before. O003-9

The Authority can take this action today. If the Board does not want to place the matter on its agenda as an addition, as it is authorized to do by a supermajority vote, it may consider the item in connection with the threatened litigation exception to the State's open meeting requirements.

The key thing is for the Authority to act now, to avoid a violation of the CEQA process. Simply stated, we are asking for the Authority to demonstrate through its process that it will, in fact, keep an open mind until the process is concluded. This is exactly what CEQA requires.

Thank you for taking our comments into consideration.

Very truly yours,

Gary A. Patton, Of Counsel
WITTWER & PARKIN, LLP

Response to Letter O003 (Gary A. Patton, Wittwer and Parkin, LLP, April 7, 2010)

O003-1

The current environmental review process, including the recirculated "Revised Draft Program EIR Material," is being conducted to comply with the final judgment in the Town of Atherton litigation and to fully comply with CEQA at the programmatic level of a tiered CEQA compliance process for the HST system.

O003-2

The Authority disagrees with these comments. The CEQA comment period that the commenter is participating in is specifically identified as being undertaken to comply with the final judgment in the Town of Atherton case. That judgment identified specific areas that the Court concluded required revision and recirculation. As the first step in complying with that judgment, the Authority rescinded its certification of the May 2008 Final Program EIR and rescinded its approval of the Pacheco Pass Network Alternative Serving San Francisco via San Jose at its meeting in December 2009. In March 2010, the Authority continued its compliance by recirculating for further comment those portions of the prior Program EIR that the Superior Court identified as requiring corrective work to comply with CEQA. The revised and recirculated materials address the matters identified in the Town of Atherton final judgment. These materials further discuss how the revised and recirculated materials affect the staff recommendation of a preferred network alternative. The document neither treats the materials in it as merely "technical corrects" nor presumes that the Authority board will make the same selection of a network alternative when it makes new decisions. As noted in the document, the Authority will prepare responses to comments received on the revised materials and will consider the entire record before it prior to making a new decision.

O003-3

See Response to Comment O003-2.

O003-4

The Authority disagrees that its project-level EIR work constitutes pre-judgment of the outcome at the program level. The Superior Court in the Town of Atherton case considered whether to enjoin the Authority's project-level EIR work pending completion of the necessary CEQA work at the program level and declined to do so. The court specifically found that project-level environmental studies would not create such momentum as to make the Authority unable to comply with CEQA. The Authority is aware of its obligation under CEQA to make a new, unbiased decision on a network alternative and it will have the opportunity to do so at the completion of the recirculated EIR process.

O003-5

The Authority disagrees with the commenter's interpretation of the notice of availability. The notice of availability requested that members of the public focus their comments on the new information and analysis contained in the Revised Draft EIR Material and stated that the Authority's legal obligation extended to responding only to those comments related to the new materials. This language in the notice is based on CEQA Guidelines section 15088.5, applicable to situations like the current one where a lead agency must revise and recirculate only a portion of a prior Final EIR. It does not indicate prejudgment or refusal to consider public comment, but rather the request for a focus on the new material. Notably, Chapter 6 of the Revised Draft EIR Material specifically relates to how the new information and analysis in the document affects the recommendation of a preferred network alternative.

O003-6

The Authority disagrees with the commenter's interpretation of the notice of availability. The notice of availability language about the next steps in the CEQA compliance process are intended to identify for the public that the Authority will consider the Revised Draft EIR Material, the Revised Final Program EIR, the May 2008 Final Program

EIR, and the entire lengthy record before it, in making new decisions about EIR certification and the selection of a new network alignment. The Authority will exercise its discretion about EIR certification at a publicly noticed meeting.

O003-7

The Authority disagrees with this interpretation of the notice of availability. The notice of availability indicates that the Authority will consider the Draft and Final Revised Program EIR Material along with the May 2008 Final Program EIR in making new decisions about EIR certification and the selection of a new alignment. The Authority will exercise its discretion at a publicly noticed meeting in determining whether to approve a network alternative, and also whether to approve findings of fact, a statement of overriding considerations, and a mitigation monitoring and reporting program.

O003-8

The Authority believes its CEQA compliance process fully complies with the law and with the content of the Town of Atherton final judgment and that no extension of time or revision to the Notice of Availability is needed.

O003-9

See Response to Comment O003-8.

Comment Letter O004 (Gary A. Patton, Wittwer and Parkin, LLP, April 26, 2010)

O004

Kris Livingston

From: Gary A. Patton [gapatton@wittwerparkin.com]
Sent: Monday, April 26, 2010 2:45 PM
To: HSR Comments
Subject: Bay Area To Central Valley Revised Draft Program EIR Material Comments
Attachments: FINAL Comment Leter on Revised Material on Bay to Central Valley EIR.pdf

Importance: High

Dear Mr. Leavitt:

Attached are comments submitted on behalf of the Planning and Conservation League (PCL), the Planning and Conservation League Foundation (PCLF), and the Community Coalition on High Speed Rail (CC-HSR).

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OF COUNSEL
Gary A. Patton

April 26, 2010

Dan Leavitt [Sent by Email: comments@hsr.ca.gov]
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

RE: Bay Area To Central Valley Revised Draft Program EIR Material Comments

Dear Mr. Levitt:

The purpose of this letter is to submit comments on what the California High-Speed Rail Authority (Authority) has called the "Bay Area to Central Valley Revised Draft Program Environmental Impact Report *Material* (emphasis added)." These comments are submitted on behalf of the Planning and Conservation League (PCL), the Planning and Conservation League Foundation (PCLF), and the Community Coalition on High Speed Rail (CC-HSR). In addition, PCL is also joining in other comments, which will be submitted separately by attorney Stuart Flashman. O004-1

By way of an editorial introduction, the parties I represent are not "against" the proposed high-speed train project. PCL and PCLF, in particular, have been longtime supporters of rail transportation projects. PCL was the sponsor of Proposition 116, enacted by the voters in June 1990, which provided $1.9 billion dollars to support rail developments within California. While none of the parties I represent, are "against" high-speed rail, all of them are absolutely unified in their demand that the Authority fully comply with its obligations under the California Environmental Quality Act (CEQA), and that the Authority "do it right" in terms of designing and constructing the high-speed train project endorsed by the voters in Proposition 1-A. O004-2

As you know from my letter of April 7, 2010 [Attachment #1], the parties I represent believe that the Authority has made a fundamental procedural error, and that the Authority has failed to comply with the requirements of both CEQA and the Peremptory Writ of Mandate issued by the Superior Court in *Town of Atherton v. California High Speed Rail Authority* (Sacramento Superior Court Case No. 34-2008-80000022) [Attachment #2]. Both attachments are incorporated herein by this reference. O004-3

In brief, the Authority was commanded to "revise the Environmental Impact Report/Environmental Impact Statement for the Bay Area to Central Valley High-Speed Train Project in accordance with CEQA, the CEQA Guidelines, and the Final Judgment entered in this case prior to reconsidering certification of that EIR/EIS." That Final Judgment required that the Authority "rescind and set aside" the Resolution which certified the earlier EIR/EIS, which the Authority did do. Thereafter, the Authority was directed by the Court to proceed "in accordance with CEQA..." As my April 7, 2010 letter specifies in detail, the Authority has *not* done that. O004-4

Comment Letter O004 - Continued

The Court did not find, in its Ruling in the *City of Atherton* case, that all of the challenges made to the last EIR were meritorious. What the court did do, however, was to direct the Authority to "rescind" its earlier project approval. Because of the court's Writ, there is no legally-approved decision to use the Pacheco Pass/Caltrain alignment option. CEQA and the cases construing it make absolutely clear that a governmental agency proposing a project must not make a decision on the project until *after* it has carried out the required environmental review. It is simply not permissible for a governmental agency to use the CEQA process to "rationalize" a decision that the agency has already made. Clearly, however, that is exactly what the Authority is seeking to do here. To correct the problem, the Authority must address the issues identified in my April 7th letter, and must revise the Notice of Availability to be consistent with CEQA, and must then provide a comment period of at least another forty-five (45) days, pursuant to a new Notice of Availability. O004-5

In addition, to act "in accordance with CEQA," the Authority must provide a substantive response to any comments received during the current comment period, as long as such comments relate to the proposed "project," i.e., the method by which the Authority will connect the Bay Area to the Central Valley. *That* is the project being evaluated in the current Draft EIR/EIS, and the Authority must not seek artificially to restrict the scope of comments made, and must not refuse to respond to comments that don't meet the Authority's preconceived idea that it will definitely make the same decision, once again, that it made before. O004-6

To quote from my April 7, 2010 letter,"the Authority is acting like the Court approved its choice of alternatives, but quibbled with some of the failures of the earlier document, and directed the Authority to make some "technical corrections." That is not what the Court did. To reemphasize, what the Court did, in its Writ of Mandate, was to command the Authority to set aside its former decision in its entirety, and not to make another decision until it has fully complied with CEQA."

Please take seriously the Authority's obligation under CEQA fully and fairly to evaluate and consider the entire project as proposed – and to do so in a way that demonstrates that the Authority hasn't already "made up its mind" about how to connect the Bay Area to the Central Valley, prior to hearing from the public during the current comment period. The comments being submitted in this letter, and the comments submitted by others during this comment period, document major environmental impacts, not previously considered, and demonstrate that there are feasible alternatives and mitigation measures that could very significantly reduce the adverse impacts of the proposed project. These alternatives and mitigation measures have not already been properly considered in connection with the last EIR, and the Authority must explore, and evaluate, and consider these alternatives and mitigation measures now, before the Authority makes a decision on how to link the Bay Area to the Central Valley. Failure to do that would be a failure to proceed "in accordance with CEQA." O004-7

In conclusion, while this letter does comment on the "Bay Area to Central Valley Revised Draft Program Environmental Impact Report *Material*" (henceforth, "Material"), this letter and other comments that the Authority will receive also raise issues relevant to the environmental review of the proposed project as a whole, including aspects of the proposed project that may not be specifically mentioned in the Draft EIR "Material" that the Authority has most recently circulated. The comments below, and any other comments that the Authority may O004-8

receive on the proposed project, and which may go beyond a response to the "Material," deserve and require a full and substantive response: O004-8 cont.

1. CEQA requires the Authority to prepare and consider an Environmental Impact Report that honestly evaluates whether there are feasible alternatives to the project as proposed, if such alternatives would reduce the negative environmental impacts of the proposed project. In other words, CEQA requires the Authority fully and fairly to examine, in its Environmental Impact Report, whether there are feasible alternatives that do not use the Pacheco Pass and the Caltrain corridor on the Peninsula as the way to connect the Central Valley and the San Francisco Bay Area. O004-9

2. Page 1-5 in the "Material" contains a Section 1.5 that indicates that the Authority may not be not taking this requirement seriously. In that section, the Authority reports that despite the fact that the actual Bay Area to Central Valley routing has not yet been determined (which can only be done after the current environmental review is concluded) the Authority has nonetheless decided to continue to carry out project-level work on a design that assumes that the routing will include the Caltrain alignment on the Peninsula. While the Authority is certainly correct that the court did not, in the *City of Atherton* case, mandate that the Authority cease its "project level" work on the Caltrain corridor, it is clear that the Authority's decision to continue such project-level work means that the Authority has assumed the risk that this work will later prove unnecessary and unusable. It is critically important for the integrity of the environmental review process that the Authority not attempt to "bootleg" its completely voluntary decision to spend money on planning for a route that has not yet been selected (the Caltrain alignment on the Peninsula) into an argument that this is the right alignment to choose. O004-10

3. The proposed project would use the existing Caltrain alignment on the San Francisco Peninsula for high-speed trains. This high-speed train service would provide almost no significant benefit for the local communities through which the high-speed trains would travel, since there would be no opportunity for local residents to get on or off in most of the communities affected. Usually, the negative impacts of a proposed project are offset, at least to some degree, by the benefits provided by the project to the very areas in which the negative impacts are felt. In view of fact that this is not the case here, and that there are few, if any, positive benefits for the Peninsula that would help offset the massively negative impacts expected on the Peninsula, the Authority must very seriously seek out and consider possible alternatives that might achieve the project objectives without causing the negative impacts that are associated with the use of the Caltrain alignment on the Peninsula. O004-11

4. Without doubt, using the Caltrain alignment on the Peninsula for high-speed trains would have manifold (and almost totally negative) environmental and community impacts for the communities along the Caltrain corridor. Adverse noise, vibration, and visual impacts all along the Caltrain corridor would result from the project. The adverse impact of the project on trees is a very significant impact, in and of itself. Adverse impacts on local schools, residential areas, and business uses are demonstrable – and again clearly significant. Impacts caused by and associated with the disruption of current community activities, and the likely diminution of property O004-12

Comment Letter O004 - Continued

values in the communities through which the high-speed trains are proposed to go, would also be significant and adverse. O004-12 cont.

5. Indirectly caused adverse impacts would also occur if the project goes forward as proposed; such impacts would be caused by the loss of business revenues and residential property tax revenues that would lead to reductions in local government budgets at the very same time that the demands on the affected local governments to provide financial support for the high-speed train system would be increasing. Deteriorating physical conditions in the affected communities can be expected if the project is approved, because of the project-caused financial shortfalls to be experienced by the local governments of communities located along the Caltrain corridor. CEQA requires the EIR carefully to analyze the nature and extent of such indirect (but quite real) impacts. The issues are not unlike those that the courts have commented on in what are sometimes called the "Wal-Mart" cases, in which CEQA has been held to require an analysis of conditions of physical blight in local communities that may be caused, indirectly, through economic impacts that are the result of a proposed project. The current Draft EIR needs to be revised, to analyze these impacts, and then recirculated. O004-13

6. CEQA requires that the Draft EIR consider a range of alternatives that could achieve the project objectives, but with fewer environmental impacts. The current Draft EIR does not adequately do this, and so fails to comply with the requirements of CEQA. In particular, the Draft EIR is deficient in not studying in much greater detail the way it might be feasible to construct a high-speed train alignment along or close to Highway 101, or in some other location, as an alternative to use of the Caltrain alignment. The fact that an existing train service exists on the Caltrain alignment has led the Authority to assume that adding new high-speed trains to the existing alignment will be the "best" solution, and have "minimum" impacts, and on this basis has sought to dismiss other alternative alignments as "infeasible." This has been done without the kind of full and fair evaluation that CEQA requires, especially since using the Caltrain alignment causes so many negative impacts to all the communities along its route, with few if any positive impacts to offset these. O004-14

7. In fact, using the Caltrain alignment will undoubtedly compromise and disturb (at least during the time of construction of the high-speed system) the existing train service that does provide manifold benefits to the communities through which the Caltrain service goes. There are negative impacts from the operation of Caltrain local service, but these negatives are offset by many benefits to the residences, businesses, and communities along the Caltrain alignment. The proposal to use the Caltrain alignment for high-speed train service will actually interfere with the current Caltrain service during (at a minimum) the construction period, and maybe more permanently. The Draft EIR does not properly analyze and evaluate these possible negative impacts on Caltrain service, and is inadequate for that reason. O004-15

8. As indicated in the attached article from the May 4, 2010 edition of *Scientific American* magazine ("Revolutionary Rail," by Stuart F. Brown) [Attachment #3], combining high-speed rail uses with non high-speed rail uses on the same track is inadvisable. In fact, the article says that separating high-speed train uses from other O004-16

train uses is an "inviolable requirement." The alignment proposed in the Draft EIR appears to rely on such a shared use of track between Caltrain and high-speed trains along the Caltrain alignment on the San Francisco Peninsula, at least to some extent. Page 3-3 of the "Material" states that the two tracks for high-speed rail on the Caltrain alignment would be used "predominantly" by the high-speed train, which means that the proposed project design does not conform to the idea that a separation of such uses is an "inviolable requirement." The proposed, shared track design for high-speed rail would be more costly, in terms of maintenance, and would also compromise the safety and reliability of the high-speed rail service. The EIR is inadequate in that it does not properly analyze the cost, safety, reliability, and other environmental impacts associated with the potential shared use character of the proposed Caltrain alignment on the Peninsula. In addition, because the cost and other problems with the proposed shared use alignment are not properly analyzed, the Draft EIR also fails adequately to evaluate the comparative advantages of alternatives that would result in an alignment more completely dedicated to high-speed rail use, as opposed to the alignment proposal that requires shared track use for the entire distance between San Jose and San Francisco. O004-16 cont.

9. The Draft EIR should also be revised and recirculated in connection with the Authority's consideration of an alternative that would terminate high-speed train service in San Jose, with a station design in San Jose that would permit an essentially seamless, "across the tracks" or equivalent connection between high-speed train service going south from San Jose with Caltrain service on the Caltrain alignment coming south to San Jose from San Francisco. Such a system design would eliminate virtually all of the massively negative impacts associated with new high-speed train service along the Caltrain corridor on the Peninsula, and such a redesigned project is consistent with a Pacheco Pass entry from the Central Valley into the Bay Area. This possible alternative project design would also be totally "feasible," in terms of the physical and other realities of such a design, and since CEQA requires the project proponent to evaluate a reasonable range of "feasible" alternatives, the Authority must evaluate this one, in view of its far superior results in terms of environmental impacts on the Peninsula. O004-17

10. It is true that there is a potential "legal" obstacle to the above-identified alternative, since Streets and Highways Code Section 2704.09 (f), as enacted in Proposition 1A, contains language stating that "passengers shall have the capability of traveling from any station on that corridor to any other station on that corridor without being required to change trains." Despite this language in Proposition 1A, the alternative just outlined is, in fact," legally feasible," as well as technically and financially "feasible," since Streets and Highways Code Section 2704.04 (b)(4), again as enacted in Proposition 1A (and which clearly anticipated the result of the litigation in the *City of Atherton* case, pending at the time Proposition 1A went to the voters), says that "nothing in this section shall prejudice the authority's determination and selection of the alignment from the Central Valley to the San Francisco Bay Area and its certification of the environmental impact report." Further, it is clear that various provisions of Proposition 1A will likely have to be changed by the voters to make it possible actually to construct the high-speed rail system, and if changes are going to

Comment Letter O004 - Continued

have to be made to Proposition 1A anyway, a change that modifies Streets and Highways Code Section 2704.09(f) is clearly feasible. Finally, even without an "across the tracks" or other comparable system that requires an actual "change of train," which might violate the provisions of Section 2704.09(f), there is a feasible alternative that would totally integrate Caltrain and high-speed rail service along the Peninsula, so that the same "train" equipment used by the high-speed train system would also provide non high-speed service to local commuters on the Caltrain alignment. Such equipment, running at non high-speeds on the Peninsula, could then connect San Francisco, through San Jose, to the further destinations south as part of the high-speed system, without requiring passengers to change trains. (This is different from the proposed system in which high-speed train equipment "shares" track with different, Caltrain equipment). In sum, the massively negative impacts of turning the Caltrain alignment into a high-speed train alignment from San Jose to San Francisco require the Authority to revise and recirculate a Draft EIR which fully explores a feasible alternative that would begin high-speed service in San Jose, rather than in San Francisco (presuming that the Pacheco Pass alignment is ultimately retained).

O004-17 cont.

11. The system design upon which the EIR analysis is based assumes that the "ridership" model used by the Authority accurately outlines the likely ridership on the system, and on various segments of the system. The proposed physical design of the system, of course, must relate to the kind of ridership that the system will attract on its various segments, and a valid alternatives analysis must also relate to valid ridership predictions. Unfortunately, the "ridership" model used by the Authority appears to be deeply flawed, and the Authority must correct its model, and then revise its environmental review document after analyzing actual ridership according to the corrected model. I do not, in this letter, attempt to revisit the flaws and fallacies of the model used by the Authority, but refer you to the critiques presented to the Senate Transportation and Housing Committee, and to other comments presented directly to the Authority. For the purposes of CEQA, neither the base environmental analysis, nor the consideration of alternatives, is adequate if not based on a robust and accurate ridership model.

O004-18

12. While the "Material" mentions environmental justice issues, the discussion lacks specificity, and is inadequate even at the "program" level. Specifically, the North Fair Oaks community, located immediately north of Atherton, and to the South of Redwood City, is the only area along the Caltrain right of way on the Peninsula that is unincorporated, and that is hence not represented by an elected City Council. The Authority has generally not done significant outreach in North Fair Oaks, and has not properly evaluated the disproportionate impacts that the low income, largely Latino community of North Fair Oaks is likely to experience if the proposed project proceeds as currently planned. This is a deficiency that must be addressed in a revised and recirculated EIR.

O004-19

13. The Authority is now proposing to modify the project reviewed in the earlier EIR by moving the new high-speed train track out of the UPRR right of way, south of San Jose, and on to the right of way of the Monterey Highway, thus eliminating two lanes

O004-20

of that road. This proposed change is not properly and adequately reviewed in the "Material" most recently circulated. There is no adequate analysis of the impacts associated with noise and construction. In addition, and more substantially, the traffic analysis does not show what sort of traffic congestion, noise, air quality, and other impacts will be felt on the roads onto which the traffic from the "lost lanes" of the Monterey Highway will be diverted. Contrary to the statement on Page 7-2 of the "Material" that the impacts experiences as a result of narrowing the Monterey Highway to accommodate construction of the HST tracks will be "less than significant…in …all southbound lanes," Page 2-11 notes that "In the southbound direction, all road segments are projected to operate at LOS E or F" (which means that congestion conditions will be terrible). The EIR must be revised and recirculated, to allow public comment on an analysis that fully discloses what the actual traffic and other impacts would be from the proposal to close two lanes of the Monterey Highway.

O004-20 cont.

14. The land use plans for the "Coyote Valley" area, adjacent to the Monterey Highway, predict significant new residential and industrial growth in the future. The EIR must analyze what impact the project, as proposed to be reconfigured, would have on the land use plans of the City.

O004-21

15. The EIR should provide a real understanding of what the visual impacts of the proposed project will be. It seems that these are likely to be extremely significant, but it is impossible for members of the public to know, based on the "Material." Page 2-13 says that "the line would run on an elevated structure up to 45 ft tall until it crosses I-280…" Photos or other illustrative materials are required in order to make clear what that would actually look like.

O004-22

16. In general, the schematic diagrams included in the "Material," in Figures PP-S1 through PP-14, disguise rather than illuminate the likely visual impacts of the proposed project. This is inconsistent with the "full disclosure" duty required by CEQA. None of the diagrams actually helps the reader (or the decision maker) understand the visual impact of the proposed project, and the example of the structure proposed for the Monterey Road right of way, as found in Figure PP-11, is particularly egregious. The diagram indicates that the structure will be 90 feet high, though it's not clear what that means, in the context of the diagram. Again, in all of these cases, some photographic or similar illustration is required, to provide the "full disclosure" that CEQA requires.

O004-23

17. The "Material" most recently circulated demonstrates a fundamental misunderstanding of the actual impacts of the proposed project on the Peninsula. On Page 3-3, the "Material" says that "given that the four tracks would be predominately within the PCJPB right-of-way, the high land use compatibility conclusion in the 2008 Final Program EIR is unchanged." In other words, the Authority suggests that because there is already Caltrain service on the existing rail right of way, new high-speed train service will be "compatible" with the adjoining land uses. This is the opposite of the truth. The proposed high-speed service is fundamentally different from the current Caltrain service, and it is fundamentally

O004-24

Comment Letter O004 - Continued

incompatible with surrounding residential, business, educational, and parks and recreation uses. O004-24 cont.

18. Table 2-1, found on Page 2-3, outlines how the Authority determines "Compatibility of Land Use Types." "High" Compatibility is shown when the adjacent land uses are "business park/regional commercial, multifamily residential, existing or planned transit center, high intensity industrial park, service commercial, commercial recreation, college, transportation/utilities, high intensity government facilities, airport or train station, or agricultural." Even assuming that "multifamily residential" is an appropriate part of this "High Compatibility" category, which it is not, the vast majority of the lands adjacent to the Caltrain right of way between San Jose and San Francisco, and certainly including lands within the communities of Mountain View, Palo Alto, Menlo Park, Atherton, North Fair Oaks, Redwood City, San Carlos, Belmont, San Mateo, and Burlingame are not predominantly of such "High Compatibility" types. Most of the land uses along the Caltrain right of way on the Peninsula are comprised of "single-family residential, neighborhood and community parks, habitat conservation area, or elementary/middle school" uses which indicate that there is a "Low Compatibility" with the proposed high-speed train service. O004-25

19. It might seem "logical" to assume that putting a new train service on a right of way where there is existing train service would have "minimum" impacts, and would tend to be "compatible" with the surrounding area. CEQA requires that the actual facts be examined, and the actual fact is that the proposed project contemplates long stretches of elevated freeway-like structures, 20 to 30 feet tall, topped with an additional superstructure of wires and sound walls, running right through the kind of areas that the "Material" admits has "Low Compatibility" with such high-speed train service. On top of such elevated structures, of course, would be frequent trains running at 125 miles per hour, with attendant sound and vibration impacts. IF the Caltrain alignment on the Peninsula is chosen at the "program" level, then the "project" level environmental review will have to see if there are ways of making this "Low Compatibility" project even minimally compatible with the residential, business, educational and recreational uses that it would so profoundly and so adversely affect. Local residents and local governments are already thinking of "tunnels," and "trenches" and are trying to imagine how that could possibly be done, and how it could possibly be done at any kind of a "feasible" cost. Wouldn't it be better, at the "program" level, really to explore what other alternatives there are? This is what CEQA requires. That is what the "Material" has totally failed to do. O004-26

20. Because of what would obviously be devastating environmental and community impacts on some of the best communities in the state, the Authority is required, by CEQA if by nothing else, to do more than token research on alternatives that could avoid all these adverse impacts. It might be "logical" to assume that new train service in a corridor where there is already existing (though quite different) train service would be "highly compatible" with surrounding land uses. However, that just isn't the case on the Peninsula. The fact is, the proposed project would have devastating impacts along the Caltrain route, and CEQA demands a much more thorough analysis of ways to avoid those impacts that the "Material" provides. O004-27

21. Proposition 1A did several things. It stated the intent of the people of California that the state should "initiate a high-speed train system that connects the San Francisco Transbay Terminal to Los Angeles Union Station and Anaheim." It also authorized the state to borrow almost 10 billion dollars to provide a publicly funded "down payment" for this effort. However, the people did not indicate that it was their "intention" to pay the whole cost of the system; nor did they indicate any "intention" to provide an ongoing subsidy for high-speed train service. Quite the contrary. Proposition 1A specifically provides that no operating subsidy will be permitted; it also provides, in Streets and Highways Code Section 2704.08(d), that construction on any segment of the proposed system will only begin when there is a well documented finding that "one or more passenger service providers can begin using the tracks or stations for passenger train service (without any operating subsidy)." In view of this requirement of Proposition 1A, shouldn't a decision on the exact "program level" alignment be deferred until after an operator for the system has been identified, and a commitment from that operator obtained? To use the Peninsula Caltrain alignment as an example, it might be that a potential operator would prefer to have the route linking the Bay Area to the Central Valley follow the alignment which *that operator* believes would minimize costs and that would provide the most effective high-speed train service. If the Authority commits to an alignment that may make "logical" sense to the Authority, but that might not make such logical sense to potential operators of the proposed high-speed train service, the Authority might make it impossible, as a practical matter, to move ahead with a project that meets the requirements of Proposition 1A. O004-28

22. It is worth adding that the people, in enacting Proposition 1A, emphatically did *not* declare that it was their "intention" to achieve the connection between the San Francisco Transbay terminal and Los Angeles Union Station/Anaheim by any specific route, including a route over Pacheco Pass and along the Caltrain alignment on the Peninsula. This fact reinforces the pragmatic point made in comment #21. O004-29

23. The Authority is engaged in this revision of the formerly-prepared EIR largely because it refused to acknowledge that the Union Pacific Railway's statement that it would not allow the Authority to use its right of way was a significant constraint that meant that it had to reevaluate and redesign the project (and particularly on the portion of the Union Pacific (UPRR) right of way between San Jose and Gilroy). A review of the "Material" most recently circulated by the Authority indicates that the Authority may still not have fully grasped the significance of the UPRR statement. The May 13, 2008 letter from Jerry Wilmoth of UPRR, addressed to Mehdi Morshed, then Executive Director of the Authority, and included in the "Material," says that Union Pacific "does not feel it is in [sic] Union Pacific's best interest to have *any* proposed alignment located on Union Pacific rights-of-way…" It does not appear that the project, as most recently presented in the "Material," has been redesigned to eliminate all such instances of the placement of the proposed high-speed train alignment on UPRR rights of way. On the Peninsula, specifically, the so-called "trackage rights" of UPRR constitute a contractual right of way, and the current project design is in obvious conflict with that contractual right of way. The O004-30

Comment Letter O004 - Continued

EIR should fully explore this issue, and consider alternative designs that would completely avoid the UPRR conflict. O004-30 cont.

24. The EIR documents significant impacts on natural resource areas and agricultural lands. It should explore in much greater detail mitigation measures to minimize those impacts, including a requirement that the Authority establish permanent open space and/or agricultural preservation easements on all parcels through which the new high-speed train would travel. O004-31

25. Finally, the EIR does not analyze in an adequate way the true global warming impacts of the proposed project. That is required. The Attorney General's website provides a number of resources for doing an adequate analysis of the potential global warming impacts of proposed projects - http://ag.ca.gov/globalwarming/ceqa/generalplans.php The academic paper referenced in the following URL also documents the kind of analysis required: http://iopscience.iop.org/1748-9326/5/1/014003/fulltext O004-32

Conclusion

It might, at first glance, seem "logical" to suppose that the new high-speed train service called for by Proposition 1A should be built, as much as possible, on or adjacent to existing train rights of way. It would seem "logical" that using such existing rights of way would, in fact, be respectful of the environment, and would be "better" in every way. Jumping to that apparently "logical" conclusion may be what led the Authority to propose the current high-speed rail design. In fact, however, what seems "logical" at first glance is obviously not the "best" design, at all, when the issues are considered in detail. O004-33

The Union Pacific Railway Company (UPRR) has told the Authority that it rejects *any* sharing of its right of way with the proposed new high-speed train system, and there is a "logical" reason for that: Union Pacific runs freight service (which is at least as economically and environmentally important as the proposed new high-speed train service), and sharing the current UPRR right of way with the proposed high-speed train system will significantly disrupt both UPRR's current service, and make it much more difficult for UPRR to expand its rail freight business in the future. The implications of this *fundamental* comment by UPRR, received late in the first EIR process, has not yet been fully absorbed by, the Authority. Because the position of UPRR fundamentally alters the entire situation, CEQA requires a much more extensive examination of the initial proposal than the recently circulated "Material" provides.

Understandably, the Authority wants to "get on with it." However, the proposed project is the biggest public works project ever proposed, in the history of the United States, and it's much more important to "do it right" than to do it *fast*. In fact, attempting to do it "fast," may well mean that it won't get done at all. This is not what the people of California want. They do want a new high-speed train system linking Los Angeles/Anaheim with San Francisco (as a first step). To make that happen, the Authority needs to be willing to do the environmental analysis "right." The Authority won't be able to do the project "right" if the environmental analysis is "wrong." O004-34

The incredibly adverse impacts that the proposed project would have on the San Francisco Peninsula (with few, if any, offsetting benefits) is the best example of how the Authority has misunderstood the "logic" of trying to maximize the use of the existing rail right O004-35

of way. It might seem "logical" that adding new train service to a corridor that already has train service would minimize impacts. In fact, the opposite is the case. Trying to put a new high-speed train service on this existing Caltrain right of way would have all of the following impacts:

- It would be maximally disruptive of existing residential, business, school, parks, and recreational uses located along the current Caltrain alignment.
- It would engender the most litigation and other delays, because residents, businesses, and local communities would be motivated to "fight back" against a plan that poses such a direct and dramatic threat to things they care about most. O004-35 cont.
- It would disrupt existing (and extremely beneficial) Caltrain service, certainly during the time the new high-speed system was being constructed and probably thereafter.
- It would have the maximum adverse economic impacts within local communities.

The Authority's initial impression was that using the Caltrain right of way on the Peninsula would have *minimum* environmental impacts (and that is what the "Material" says). That was a "logical" but erroneous impression. The Authority now knows that the Caltrain alignment is *not* the alignment that will result in the *least* impacts, but the alignment that will result in the *most* impacts. O004-36

It is always hard to have to admit that one's first impression was wrong. In this case, it clearly was, as the comments contained in this letter, and other comments being submitted to the Authority, demonstrate. The "right" thing to do is to redo the environmental analysis, in accordance with CEQA, and really to search hard for alternatives to get from the Central Valley to Sacramento that will not impinge on the UPRR right of way, or use the Caltrain corridor on the Peninsula.

Thank you for taking these comments into consideration.

Very truly yours,

Gary A. Patton, Of Counsel
WITTWER & PARKIN, LLP

cc: Planning and Conservation League
Planning and Conservation League Foundation
Community Coalition on High-Speed Rail

Comment Letter O004 - Continued

Attachment Included as reference for O004-3

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

TOWN OF ATHERTON, a Municipal Corporation, PLANNING AND CONSERVATION LEAGUE, a California nonprofit corporation, CITY OF MENLO PARK, a Municipal Corporation, TRANSPORTATION SOLUTIONS DEFENSE AND EDUCATION FUND, a California nonprofit corporation, CALIFORNIA RAIL FOUNDATION, a California nonprofit corporation, and BAYRAIL ALLIANCE, a California nonprofit corporation, and other similarly situated entities,
Petitioners and Plaintiffs

v.

CALIFORNIA HIGH SPEED RAIL AUTHORITY, a public entity, and DOES 1-20,
Respondents and Defendants

No. 34-2008-80000022

PEREMPTORY WRIT OF MANDATE

To Respondent CALIFORNIA HIGH SPEED RAIL AUTHORITY:

Judgment has been entered in this proceeding ordering that a peremptory writ of mandate issue under seal of this Court.

THEREFORE you are commanded, immediately upon receipt of this Writ:

1) To rescind and set aside your Resolution No. 08-01 certifying the Final Environmental Impact Report/Environmental Impact Study ("EIR/EIS") for the Bay Area to Central Valley High-Speed Train Project, approving the Pacheco Pass Network Alternative Serving San Francisco and San Jose Termini, and approving preferred alignment alternatives and station location options. This resolution is

Attachment #2

Attachment Included as reference for O004-3

remanded to Respondent for reconsideration after completing compliance with this writ;

2) To rescind and set aside your Findings of Fact and Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA") in support of the aforesaid resolution No. 08-01. These findings are remanded to Respondent for reconsideration after completing compliance with this writ; and

3) To revise the Environmental Impact Report/Environmental Impact Statement for the Bay Area to Central Valley High-Speed Train Project in accordance with CEQA, the CEQA Guidelines, and the Final Judgment entered in this case prior to reconsidering certification of that EIR/EIS.

Under Public Resources Code §21168.9(c), this Court does not direct Respondent to exercise its lawful discretion in any particular way.

YOU ARE FURTHER commanded to serve and file a written return to this Writ on or before the seventieth day following service of this writ, showing your compliance.

Dated: NOV 3 - 2009

DENNIS B. JONES
Clerk of the Superior Court
By: A. Lee, Clerk
S. LEE

Approved:

Dated Oct. 19, 2009

Stuart Flashman
Attorney for Petitioners and Plaintiffs

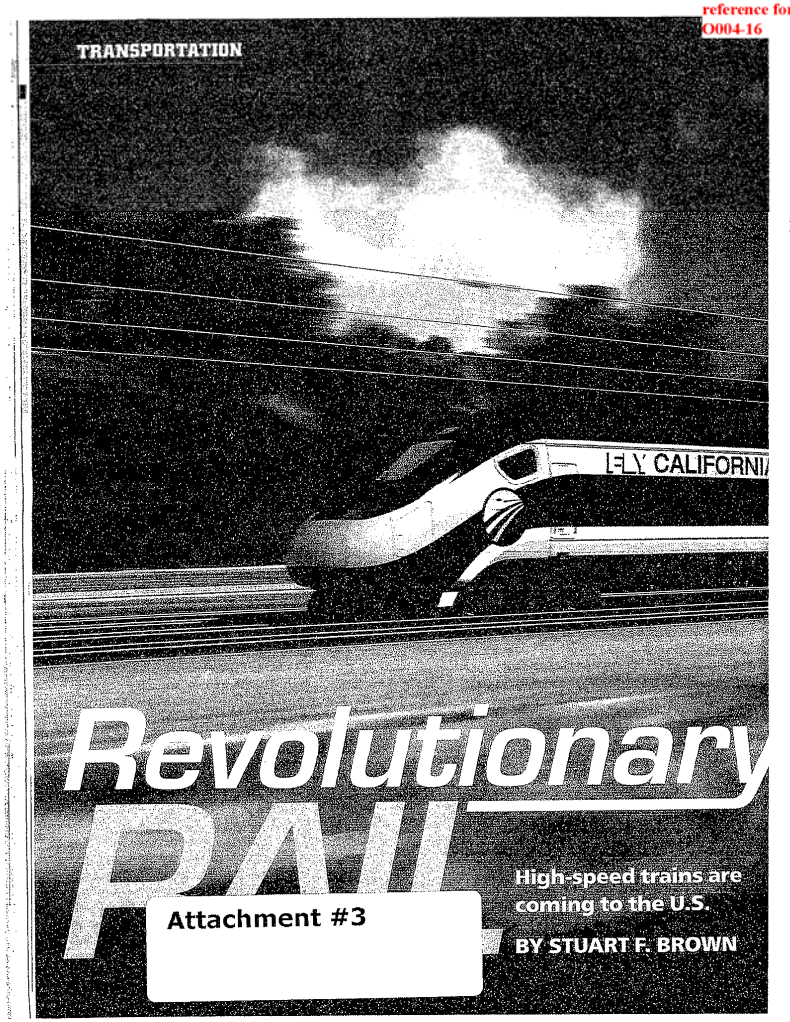
Approved:

Dated

Danae Aitchison
Deputy Attorney General
Attorney for Respondent

Comment Letter O004 - Continued

Attachment Included as reference for O004-16



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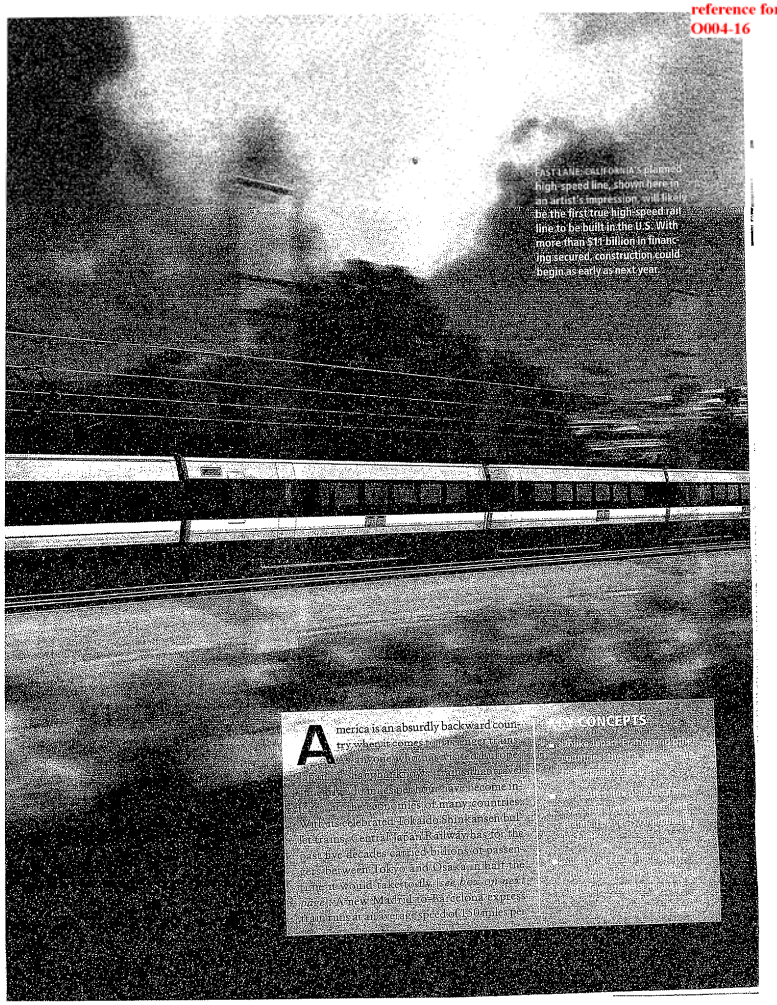

Comment Letter O004 - Continued

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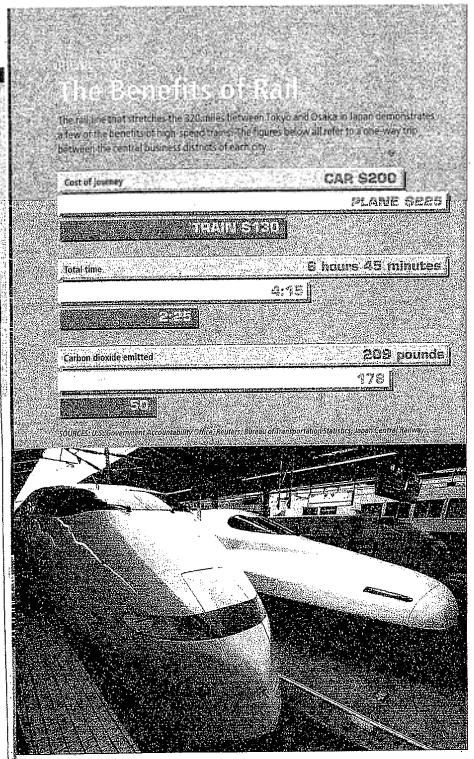


▲ ALTERNATE ROUTE: Japan's Tokaido Shinkansen bullet trains carry 150 million passengers every year.

hour; since its inception two years ago, airline traffic between the two cities has dropped by 40 percent. In contrast, Amtrak's showcase Acela train connecting Boston to Washington, D.C., averages just 70 mph. That figure is so low because many sections of the Acela's tracks cannot safely support high speeds, even though the train itself is capable of sprints above 150 mph. Think of it as a Ferrari sputtering down a rutted country lane.

There has been a recent push to change all this. Earlier this year the Department of Transportation announced the recipients of $8 billion in stimulus funding designed to spread high-speed rail across the U.S. The 2010 federal budget requests an additional $1 billion in rail construction funds in each of the next five years. And in 2008 California voters approved a $9-billion bond measure to initiate an ambitious high-speed rail network that would connect Los Angeles to San Francisco and, eventually, Sacramento and San Diego.

Questions remain, however, about exactly what kind of passenger system will be built. In the decades since the federal government last pursued rail as a viable way to transport passengers—not just freight—train technology has advanced significantly, with advanced high-speed lines spreading through Europe and, more recently, across mainland China.

And what exactly qualifies as "high speed" by the guidelines of the stimulus funding is open to interpretation. Federal authorities, eager to spread the wealth to as many congressional districts as possible, are financing a bevy of incremental improvements to existing lines. In many cases, these projects will only marginally increase passenger rail speeds.

On the other end of the technological spectrum, some efforts aim to bypass wheels-on-rail systems by using magnetic levitation, or maglev technology, in which passenger cars float above a concrete guideway. Momentum for the technology comes in a number of forms. Although maglev trains have been in development for decades, the first (and, thus far, only) commercial system entered service in 2004. For mountainous regions of the U.S., the technology represents the only viable solution to the problem of steep gradients that would otherwise cripple standard rail lines. And perhaps most important, the technology has received a stunning vote of confidence from the world's foremost experts in building and operating commercial high-speed passenger rail lines.

The Maglev Option

The Central Japan Railway (CJR) has by far the world's largest body of experience in operating high-speed trains, having run the sleek wheels-on-rail Shinkansen bullet trains connecting the population centers of Tokyo, Nagoya and Osaka since 1964. Yet the realities of running the bullet system are now spurring CJR's interest in maglev. Every night a marching army of 3,000 railway workers descends on a 12-mile section

Attachment Included as reference for O004-16

of Shinkansen track, scrutinizing the rights-of-way, replacing worn components and assuring precision alignment of the rails. The following night they labor on the next 12-mile section of track. The work never ends.

The company must invest all this costly effort because even small imperfections in the tracks can trigger serious vibrations in the speeding trains. These vibrations, in turn, increase wear and tear on the infrastructure. The deterioration of rails, train wheels and the overhead catenary wires supplying electricity to locomotives increases exponentially with the train's running speed. Truly high-speed rail turns out to be murder on the hardware. If the nighttime maintenance work on the Shinkansen line takes longer than expected, its 309-train daily schedule is thrown into chaos.

Hoping to avoid such difficulties, the company plans to construct a high-speed maglev line called the Tokaido Shinkansen Bypass, which it aims to complete by 2025. Although this would not be the world's first commercial maglev line—a 19-mile shot connecting Shanghai's airport with its financial center opened in 2004—at 180 miles, it will be by far the most ambitious. Yoshiyuki Kasai, CJR's chair, told a gathering of transportation officials in Washington, D.C., last June that maglev would be less expensive than traditional high-speed rail in the long run because of less costly upkeep demands over the life cycle of the system. CJR also says maglev promises to reduce trip times because the trains accelerate and slow down much more rapidly than wheel-on-rail trains can.

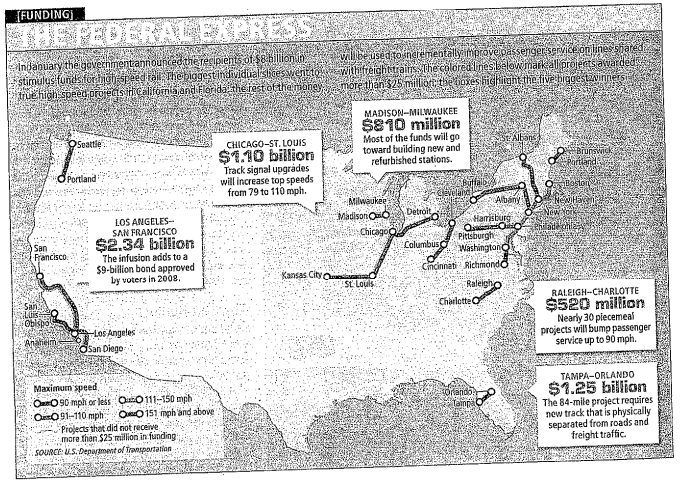
More significant for the prospects of maglev technology in the U.S., maglev propulsion allows trains to climb much steeper gradients than standard high-speed rail lines can. It is the only way fast trains could pass through much of the western U.S.'s jagged terrain.

The problem for classic technology is traction. Locomotives' steel wheels can maintain only so much adhesion to steel rails before they start to slip, and the train stalls. Common and unpredictable conditions such as rain, snow, ice and even wet leaves place a limit on the steepness of the grade a train can climb or safely de-

[THE AUTHOR]

Contributing editor Stuart F. Brown has been covering transportation topics such as rail, automobiles, trucks, boats, aircraft and spacecraft since 1984. His work been recognized by the American Association of Engineering Societies, the American Chemical Society and the Institute of Electrical and Electronics Engineers.

[FUNDING]



Comment Letter O004 - Continued

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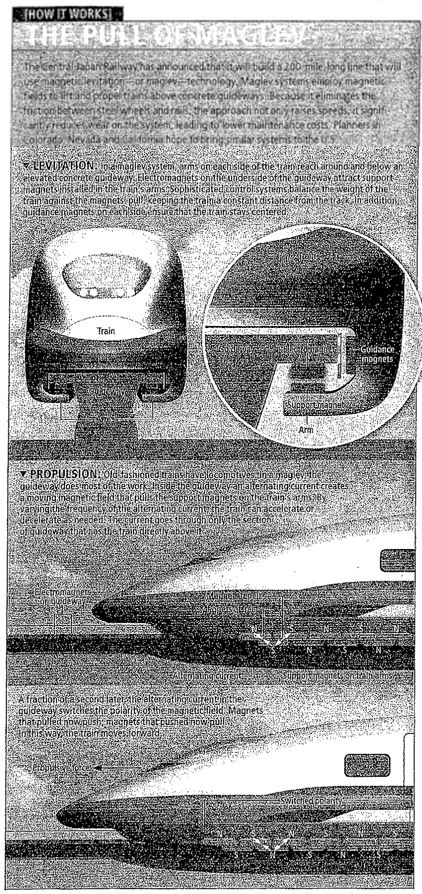
[HOW IT WORKS]



GEORGE RETSECK

scend. Because of this limitation, grades on railways in the U.S. are generally kept below 3 percent, and grade maximums of 2 percent or less are most common.

Maglev lines, in contrast, have no steel-on-steel contact, so traction does not pose the challenge it does on a wheels-on-rails line. Maglev lines can climb a 10 percent grade, which permits planners to select more expeditious routes when laying out new rights-of-way through hilly terrain.

The technology also allows for high-speed transport in areas that would otherwise remain impassable. The Rocky Mountain Rail Authority recently completed an 18-month study of building two intersecting high-speed train lines running along about 400 miles of Colorado's north-south and east-west interstate highways. It concluded that the trains need to be maglev, because some of the grades along the highways reach 7 percent. "You're going through the Rocky Mountains," says Harry Dale, the rail authority's chair. He also notes that because magnetic forces, not physical adhesion, propel and slow the train, Colorado's "snow and ice problem goes away."

Dale believes that the maglev trains built by Transrapid International, a joint venture of the German firms Siemens and ThyssenKrupp, could do the job. Transrapid is the manufacturer of the Shanghai airport system, which has whisked more than 17 million passengers from Shanghai to its airport at peak speeds of 267 mph. Transrapid's maglev trains use conventional electromagnets; the Japanese, on the other hand, have been researching technology that employs superconducting electromagnets not unlike those found inside the Large Hadron Collider. While the superconducting approach provides greater clearance between train and guideway as a precaution against earthquakes, the magnets must be cooled with liquid helium, an expensive and unwieldy proposition.

The Fast Route

Competing proposals for a passenger train line connecting Las Vegas to southern California further demonstrate just how important maglev technology can be. Urban planners have dreamed of linking Las Vegas to Los Angeles with fast trains for decades. "This is an ideal corridor for high-speed trains because you are connecting one of the biggest entertainment districts in America with southern California, one of the largest population centers," says engineer Thom-

Attachment Included as reference for O004-16

as Bordeaux, senior transportation manager at Parsons Transportation, an engineering firm in Las Vegas. The cities are 270 miles apart—right in the sweet spot between 100 and 500 miles where train travel is more convenient than either driving or flying. And the land between those two cities is little more than sand and scrub, a blank canvas on which to paint the tracks.

Unfortunately, the Los Angeles basin is flanked to the east by the San Bernardino and San Jacinto mountain ranges. Any high-speed line penetrating these natural obstacles would have to scale grades of up to 7 percent, which is only feasible using maglev technology. The California-Nevada Super Speed Train project aims to do just that, connecting Las Vegas with Anaheim, a large city just south of Los Angeles.

The alternative to maglev technology is to avoid the L.A. basin area altogether. The DesertXpress, as the project is called, would build a traditional high-speed rail line that links Las Vegas to Victorville, a high desert outpost more than an hour and a half from downtown Los Angeles (this assumes no traffic, which is an anomaly in L.A.). While it would not require advanced technology, it also would not take passengers anywhere they would want to go.

The DesertXpress will also fail to connect to the planned California high-speed rail system that will link Los Angeles to San Francisco. The California project was one of the two big winners in this year's stimulus fund giveaway, along with an 84-mile route connecting Tampa and Orlando in Florida. When the stimulus money is combined with the $9 billion secured in the 2008 voter referendum, the California project will have in hand more than a quarter of its $40-billion projected total cost. Construction is likely to begin as early as 2011.

[COST COMPARISON]

Maglev vs. Traditional High-Speed Rail

The existing and planned high-speed train projects listed below demonstrate that the cost of [illegible] depends greatly on individual circumstances. The most important factors include the terrain the line must pass through (mountainous areas are more [illegible]), how densely populated the area is, the cost of labor, and the technology being used.

Line	Estimated construction cost per mile (millions)	Status	Technology	Length (miles)
Yatsushiro to Kagoshima	$82	Completed 2004	Wheels on rail	79
Barcelona to Madrid (*pictured above*)	$39	Completed 2008	Wheels on rail	468
Los Angeles to San Francisco	$63	Proposed	Wheels on rail	520
Las Vegas to Victorville	$22	Proposed	Wheels on rail	183
Las Vegas to Anaheim	$48	Proposed	Maglev	269
Baltimore to Washington, D.C.	$132	Proposed	Maglev	40

Exclusive Access

Regardless of whether maglev or conventional rail-on-wheels technology is used, an inviolable requirement for safe fast-train operation is having special tracks dedicated to the high-speed trains, no exceptions permitted. That is where Amtrak's pokey Acela line, which shares its route with freight and slower passenger trains, was born to fail.

Another necessity is laying out the track so that there are no grade-level crossings, which is where most crashes happen involving trains and road-going vehicles. Time and time again, people try to drive around a closed crossing gate to beat the train, or pedestrians who are unaware that oncoming locomotives project very little sound in front of them notice a train when it is too late to escape. Depending on a route's terrain, lots of overpasses, underpasses and tunnels may be needed to keep the rest of the world out of the exclusive path of the fast trains.

Why has it taken so long for the U.S. to get onboard with technologies that are already ripe? The short answer: passenger trains have not been a federal priority for quite some time. The nation spent decades building interstate highways and airports; investment in tracks suitable for fast trains dwindled to almost nothing. American railroads became almost exclusively low-speed haulers of heavy freight.

But the recent push for green transportation, along with the realization that the nation's highways and airports are already operating past capacity, could bring fast trains into vogue—at least in a few key regions of the country. ■

GEORGE RETSECK

➡ MORE TO EXPLORE

High Speed Passenger Rail. Report of the U.S. Government Accountability Office, GAO-09-317, March 19, 2009. **www.gao.gov/products/GAO-09-317**

The Third Way: Will a Boom in Government Investment Bring True High-Speed Rail to the U.S.? Michael Moyer in *Scientific American*, Vol. 301, No. 2, pages 15–16; August 2009.

California High-Speed Rail Authority Web site: **www.cahighspeedrail.ca.gov**

Transrapid maglev technology demonstration: **http://bit.ly/transrapid**

Response to Letter O004 (Gary A. Patton, Wittwer and Parkin, LLP, April 26, 2010)

O004-1

Comment acknowledged.

O004-2

Comment acknowledged.

O004-3

The Authority disagrees with the assertions in this comment. Please see responses to comments in letter O003.

O004-4

The commenter describes the requirements in the Town of Atherton final judgment. Consistent with that final judgment, the Authority rescinded its prior resolution No. 08-01 and directed its staff to prepare revised CEQA documentation to comply with the final judgment. Authority staff have proceeded to do so. The Authority believes that its process for complying with the Town of Atherton final judgment complies fully with the judgment and with CEQA.

O004-5

CEQA requires a lead agency preparing an EIR to make a decision only after it has completed the EIR process and certified the EIR for compliance with CEQA. This is the process the Authority is following here. In response to the Town of Atherton final judgment, the Authority rescinded its prior resolution certifying the 2008 Final Program EIR and approving the Pacheco Pass Network Alternative serving San Francisco via San Jose. The Authority has recirculated portions of the Program EIR that required corrective work to comply with the judgment and with CEQA. The Authority is expected to make a new decision regarding the adequacy of the Program EIR and a new decision on the project at an upcoming noticed meeting of the Authority board. We disagree that a further comment period is required.

O004-6

CEQA Guidelines section 15088.5 provides a mechanism whereby a lead agency revising and recirculating a portion of a prior EIR can ask the public to focus its comments on the new material. The lead agency is required to respond only to those comments that pertain to the new material. Nevertheless, in this document, the Authority is providing a good faith, reasoned response, to all significant environmental issues raised in the comments received. The Authority disagrees with the characterization in the comment that the Authority is treating the Atherton judgment as if it involved only technical corrections. The Ruling on Submitted Matter for the Town of Atherton case is attached as an appendix to the Revised Draft EIR Material. The Authority has used the Ruling as a guide to preparing the revised and recirculated materials and the Revised Draft EIR Material explains in Chapter 1 how it is tailored to comply with the judgment in the Town of Atherton case. The Authority will not make a new decision until it has completed its CEQA compliance process.

O004-7

The Authority takes its CEQA compliance obligations seriously and has not prejudged the ultimate decisions on the Program EIR and the project. All input on alternatives and mitigation strategies is being considered and will contribute to the Authority's decision making process. The Authority board will make a new decision for how the HST system will connect the Bay Area to the Central Valley by exercising its discretion based on the entire record before it, including the entirety of evidence and input on the Revised Draft Program EIR.

O004-8

Comment acknowledged. While we disagree with the commenter's views about the Authority's obligations in responding to comments, this Final Program EIR provides a good faith reasoned response to all significant environmental issues raised in the comment letters on the Revised Draft Program EIR.

O004-9

The Authority disagrees with the comment and believes the program EIR process has evaluated a reasonable range of alternatives, including alternatives that differ significantly from the Pacheco Pass Network Alternative serving San Francisco via San Jose. The May 2008 Final Program EIR examined a no project alternative and 21 representative network alternatives for connecting the Bay Area to the Central Valley. Included in this range of alternatives were 11 Altamont Pass network alternatives, 6 Pacheco Pass network alternatives, and 4 Pacheco Pass with Altamont Pass (local service) network alternatives. Additional alignment alternatives were evaluated within the representative network alternatives, providing an even greater range of options. The EIR fully complies with CEQA's requirements for the study of alternatives.

O004-10

See Response to Comment O004-9.

O004-11

The Authority disagrees with the suggestion that the HST system in the Peninsula "would provide almost no significant benefit for local communities through which the high-speed trains would travel."

The Authority notes that residents of these communities are expected to use the HST system to travel to and from other destinations in the state, and the HST system would provide opportunities for these communities to serve as a destination for business, recreational, or educational travel, (e.g., families traveling to and from Stanford).

By providing a shared use corridor, all Caltrain platforms would allow riders to take the Caltrain to or from an HST station and transfer to/from the HST system. This is common in countries across the world with HST systems. In fact, it is not unusual for riders to take a more local train in the reverse direction to an HST station to make the transfer. As noted in the 2008 Final Program EIR, Caltrain is viewed as complimentary feeder system to the HST system.

O004-12

As noted in Chapter 3.7, Land Use, in the 2008 Final Program EIR, the San Francisco to San Jose corridor would be primarily within an existing active commuter and freight rail corridor and therefore would not constitute any new physical or psychological barriers that would divide, disrupt, or isolate neighborhoods, individuals, or community focal points in the corridor. In addition, construction of grade separations where none previously exist would improve circulation between neighborhood areas. The Authority Board committed in July 2008 to investigate profile alternatives to avoid and minimize potential impacts, including trench, tunnel, aerial, and at-grade between San Francisco and San Jose. Although the Authority has rescinded its July 2008 program decision, the commitment to examine profile alternatives is being carried forward into the project level analyses.

There is the potential for temporary impacts to occur during construction including noise, air quality (dust), visual quality, and traffic/circulation. Specific locations, phasing and the scale of construction impacts will be further examined in detail at the project level because they are a product of the HST system design, and the detailed study necessary to identify the presence of the impact, the level of significance, and mitigation can only be done at the project level. The 2008 Final Program EIR identified that the HST project would result in significant and unavoidable impacts to the physical environment. The EIR identified mitigation strategies to address these impacts to the greatest extent feasible. In addition, the EIR discloses that regardless of alternative selected, significant adverse environmental impacts are anticipated, though the scale and location of these impacts may differ between alternatives. Accordingly, a change in the alternative selected would reduce or eliminate impacts to trees and vegetation along a particular alignment but would not eliminate altogether the impacts of constructing and/or implementing the HST system. A detailed project-level EIR/EIS will be prepared to identify potential project-specific environmental and community impacts and mitigation measures. See Responses to Comments L003-44, L003-47, and L003-152.

O004-13

We disagree that the project will cause a loss of business revenues and residential property tax revenues that will indirectly result in physical deterioration amounting to blight along the Caltrain Corridor. We also disagree that the Program EIR needs to be revised and recirculated to further address this issue. Secondary effects of economic changes from the project were not identified by the Superior Court in the Town of Atherton case for further analysis. Rather, as the Superior Court noted, the Authority relied on established modeling programs to assess the potential for economic and population growth in the study area. Chapter 5 of the May 2008 Final Program EIR assessed economic issues related to the project, including economic growth and growth-related impacts of the proposed project. The conclusion of this discussion was that the HST project would lead to economic growth due to densification of land use and increased property values in and around station areas. In addition, the document indicates that the project is expected to spur employment growth and increased property values more generally within the area where the network alternative is selected. These conclusions have been further identified in the Authority's 2009 Business Plan. More detailed evaluation of the potential for economic changes leading to secondary environmental effects such as blight is appropriately addressed as part of project-level EIRs.

O004-14

The 2008 Final Program EIR examined a “no project” alternative and 21 representative network alternatives for connecting the Bay Area to the Central Valley. Included in this range of alternatives were 11 Altamont Pass network alternatives, 6 Pacheco Pass network alternatives, and 4 Pacheco Pass with Altamont Pass (local service) network alternatives. The 2010 Revised Draft Program EIR Material clarified those portions of the 2008 Final Program EIR requiring revision or expansion. With these two documents, the Authority has provided a full and fair review of a reasonable range of alternatives. Please see Response to Comment O004–11 regarding the benefit of HST in the Caltrain Corridor.

The Superior Court in the Town of Atherton case held the Authority has substantial evidence supporting the elimination of the U.S. 101 alignment alternative from study in the 2008 Bay Area to Central Valley Program EIR. See Appendix A of the 2010 Revised Draft Program EIR (page 19). The Authority and the FRA considered potential HST alternatives along U.S. 101 between San Francisco and San Jose as part of the Statewide Program EIR/EIS process and the Bay Area to Central Valley Program EIR/EIS process. The U.S. 101 alternative was screened out from further study in the program environmental documents for practicability reasons. See Standard Response 10. See also response O004-15, below, discussing how HST planning and the Regional Rail Plan adopted by the Bay Area Metropolitan Transportation Commission work together, providing potential to result in significant transportation and economic benefits.

O004-15

State law created the California High-Speed Rail Authority with specified powers and duties relative to the development and implementation of a high-speed train system. The Metropolitan Transportation Commission (MTC), Bay Area Rapid Transit District (BART), Peninsula Corridor Joint Powers Board (Caltrain), and the High Speed Rail Authority, along with a coalition of rail passenger and freight operators, prepared the San Francisco Bay Area Regional Rail Plan, which was adopted by the MTC in September 2007. The Regional Rail Plan examines ways to incorporate passenger trains into existing rail systems, improve connections to other trains and transit, expand the regional rapid transit network, increase rail capacity, coordinate rail investment around transit-friendly communities and businesses, and identify functional and institutional consolidation opportunities. The plan also includes a detailed analysis of potential high-speed rail routes between the Bay Area and the Central Valley consistent with the Authority’s environmental review of the proposed rail lines. Overall, the plan looks at improvements and extensions of railroad, rapid transit, and high-speed rail services for the near term (5–10 years), intermediate term (10–25 years), and long term (beyond 25 years). The Regional Rail Plan is intended to create a rail network that addresses the

anticipated growth in transportation demand and help deliver the long-range vision of rail for the Bay Area.

Caltrain will benefit from the creation of a fully grade-separate right-of-way, allowing trains to operate more safely by eliminating at-grade traffic and pedestrian crossings and also reduce noise issues associated with at-grade crossings. The Authority disagrees that the analysis of construction impacts was inadequate. Refer to Section 3.18, Construction Methods and Impacts, in the 2008 Final Program EIR as well as the other sections on Chapter 3 were construction impacts at a program level were appropriately discussed. Construction impacts for the HST project vary with location. A detailed impacts analysis of the addition of the HST service to the Caltrain corridor is currently underway as part of project level engineering and environmental analyses. It is assumed in the Program EIR that Caltrain and HST would remain within the existing right-of-way at most locations, but some temporary construction detours for automobile traffic and shooflies (temporary detours for railway tracks) would be necessary. The specific design and subsequent impacts of temporary construction impacts cannot be assessed until at least 15% engineering design is complete and the full extent of impacts cannot be understood until 30% engineering design is complete during the project level analysis.

Potential impacts include street disruption for relocation of utilities, raising or lowering the grade of the street for a railway grade separation, temporary full or partial closure for grade separation construction or a railway shoofly, loss of on-street parking for the same reasons. Mitigations for these impacts will be developed at the project level, once sufficient engineering work has been completed. Potential mitigations could include complex construction staging to minimize the size/scope of street detours/closures or railway shooflies, creation of temporary replacement parking, increased traffic control staff and devices to mitigate temporary lane reductions, educational programs to help motorists avoid construction areas, utilize temporary parking facilities, or activities to encourage patronage of affected commercial areas. Mitigations for noise during construction can include early construction of sound walls, temporary sound walls and restricted work hours. See also Responses to Comments L003-44 and L003-152.

O004-16

As discussed in Chapter of the 2008 Final Program EIR, “to operate at high speeds, a dedicated, fully grade-separated right-of-way is necessary with more stringent requirements than those needed for lower-speed lines. Therefore, this state-of-the-art, high-speed, steel-wheel-on-steel-rail technology would operate in the majority of the statewide system in dedicated (exclusive track) configuration. In congested urban areas, where the high-speed train would operate at far lower speeds, the HST would be integrated into existing conventional rail lines with resolution of potential equipment and operating compatibility issues by the FRA and the California Public Utilities Commission. HST shared-use corridors would meet the following general criteria in addition to HST performance criteria:

- Uniform control/signal system.
- Four tracks at stations (to allow for through/express services and local stopping patterns).
- Three to four mainline tracks (depending on capacity requirements of HST and other services).
- Physical or temporal separation from conventional freight traffic.

Safety features of the HST system as a whole include full grade-separated tracks with state-of-the-art safety, signaling, and automated train control systems. Additional information regarding the safe operation of HST is provided in Standard Response 9. The shared track proposal for the corridor between San Francisco and San Jose is plainly identified in Chapter 2. The Authority does not agree that the analysis of this corridor is inadequate. Chapter 3 of the 2008 Final Program EIR, as modified by the 2010 Revised Draft Program EIR, analyzes the environmental impacts along this corridor at a program level of detail. More detailed discussion of impacts along the Caltrain Corridor would occur in a second-tier, project-level environmental document if the Caltrain Corridor is part of the selected network alternative for further study.

O004-17

The commenter suggests the EIR should be revised and recirculated to consider stopping the HST service in San Jose. The Authority notes that the Draft and Final Program EIRs did evaluate alternatives that would terminate in San Jose and not travel up the Peninsula on the Caltrain Corridor. These alternatives included Altamont Pass Network Alternative with Oakland and San Jose Termini; Altamont Pass with San Jose Terminus; Altamont Pass with San Jose, Oakland and San Francisco via Transbay Tube; Pacheco Pass with Oakland San Jose Termini; Pacheco Pass with San Jose Terminus; Pacheco Pass with San Jose, Oakland, and San Francisco via Transbay Tube; Pacheco Pass with Altamont Pass (local service) with Oakland and San Jose Termini; and Pacheco Pass with Altamont pass (local service) with San Jose Terminus. The comment correctly identifies that language in Proposition 1A states that, "nothing in this section shall prejudice the authority's determination and selection of the alignment from the Central Valley to the San Francisco Bay Area and its certification of the environmental impact report." (Streets and Highways Code, section 2704.04(b)(4).) See also Standard Response 10 on alternatives generally.

O004-18

The Authority disagrees with the comment and believes that its ridership model was appropriately developed, peer reviewed, and relied upon in developing the environmental analysis in the 2008 Final Program EIR. The Authority further notes that the ridership model generated forecasts of ridership and revenue for the alternatives. Transportation demand models like the one relied upon for generating the forecasts used in the 2008 Final Program EIR are capable of generating useful forecasts of future travel behavior but they are not intended to generate "actual ridership." We acknowledge the critique presented by the University of California, Berkeley Institute for Transportation Studies. Please see Standard Response 4.

O004-19

The 2008 Final Program EIR developed minority and low-income population percentage thresholds to identify locations within the study area where there were higher than average concentrations of environmental justice communities as compared to the surrounding study area, city and/or county as a whole. In addition, the Program EIR evaluated size and type of right-of-way needed for the alignment alternatives and proximity to environmental justice populations. These factors provide a reasonable indication of where potential benefits or disproportionate impacts to minority and low-income populations would be most likely to occur. Because this is a program-level document, the analysis considered the potential for environmental justice impacts on a broad scale. Additional analysis and public outreach will take place during project-level investigations to identify minority and low-income individuals including any dispersed locations of these populations and to consider potential localized disproportionately high and adverse effects. See also Standard Response 3.

O004-20

Please see response to comment L003 – 151. The Authority notes that the alignment has been better described in the 2010 Revised Program EIR Material. However its location along Monterey Highway has not changed from the 2008 Final Program EIR. The program level noise and construction impacts evaluation in the 2008 Final Program EIR therefore still apply – see Section 3.04: Noise and Vibration and 3.18 – Construction Impacts.

O004-21

A detailed examination of the impacts of the high-speed train on the City of San Jose's developing land use plans for the Coyote Valley area is beyond the scope of the program EIR. We acknowledge that the City of San Jose included the Coyote Valley area as an area for potential future growth in its 2020 General Plan, which was considered in preparation of the May 2008 Final Program. Efforts previously underway to develop a specific plan for the Coyote Valley area were terminated. Based on the work product developed for a potential specific plan, the City of San Jose developed and issued the "Coyote Valley Plan - Vision for Sustainable Development" in April 2008. The vision document indicates the City's preference for the high-speed rail alignment as being along Monterey Road. Project-

level environmental analysis will examine the effects of the current status of the city's plans for the area if the network alternative selected includes an alignment between San Jose and Gilroy.

O004-22

The 2008 Final Program EIR included photosimulations for prototypical locations throughout its study area. The locations were chosen to represent a range of situations throughout the study area, including the Peninsula, East Bay, Central Valley and other areas, in both urban and rural settings. It did not include one for a location along the Caltrain right-of-way between Diridon Station and I-280, but as noted in the comment, it did give a written description of the location. It is infeasible to create a simulation for every situation along hundreds of miles of proposed HST corridor analyzed. Simulations can be produced for many new locations as part of the project-level EIR/EIS analyses.

O004-23

The comments reflect a misreading of the dimensioning on Figure PP-11. The greatest height noted is 50 feet, not 90 feet.

O004-24

The land use compatibility conclusion in the Revised Draft Program EIR and the 2008 Final Program EIR is based on the fact that the high-speed train would be located within an existing active commuter rail and freight rail corridor between San Francisco and San Jose. While the high-speed train is different from the existing Caltrain commuter rail or UPRR freight rail service, the fact remains that this is a heavily used rail corridor with a variety of land uses along the corridor. The text on page 2-3 of the Revised Final Program EIR discusses the considerations for land use compatibility rankings in addition to those identified in Table 2-1, including a consideration of whether the alignment would be located within an existing transportation right of way. At the program level of detail, the role of the existing Caltrain Corridor in reaching a “high” land use compatibility ranking is appropriate, and serves as a comparative basis for consideration of the alternatives. In addition, construction of grade separations where none previously existed would improve circulation between neighborhood areas. We note that the conclusion of the 208 Final Program EIR was that land use effects would be significant, and that mitigation strategies would be needed to reduce impacts to a less than significant level. We further note that the Authority Board committed in July 2008 to investigate profile alternatives to avoid and minimize potential impacts, including trench, tunnel, aerial, and at-grade between San Francisco and San Jose. Although the Authority has rescinded its July 2008 program decision, the commitment to examine profile alternatives has been carried forward into the project level alternatives screening across the HST system. See Response to Comment L003-152.

O004-25

See Response to Comment O004-24. The 2008 Final Program EIR describes the existing conditions along the San Francisco to San Jose Corridor. A diverse mix of land uses is identified for the corridor as a whole and contributed to the high compatibility ranking. The area between San Francisco to Dumbarton includes urban, industrial, transportation, and residential uses. The cities of San Bruno, Millbrae, San Mateo, Belmont, San Carlos, and Redwood City are identified as having some residential uses along the rail line, but also commercial/office, industrial, and transportation uses. For the area between Dumbarton and San Jose, there text acknowledges the single family residential uses in Atherton, Menlo Park, Palo Alto, Mountain View, Sunnyvale, and Santa Clara. The text also acknowledges the more diverse land uses, including commercial, industrial, and public facilities uses in many of these areas.

O004-26

The 2008 Final Program EIR explored numerous options to connect the high-speed train between the San Francisco Bay Area and the Central Valley, including alternatives that would not travel the San Francisco Peninsula, or would travel the Peninsula only above Dumbarton. The range of alternatives is reasonable and meets CEQA’s requirements. The Authority Board committed in July 2008 to investigate profile alternatives to avoid and minimize potential impacts, including trench, tunnel, aerial, and at-grade between San Francisco and San Jose. Although the Authority has rescinded its

July 2008 program decision, the commitment to examine profile alternatives has been carried forward into the project level alternatives screening across the HST system, We expect the commitment to be reaffirmed when the Authority makes a new decision, regardless of the network alternative selected.

O004-27

An analysis of alignments that do not traverse the Caltrain Corridor is contained in the 2008 Final Program EIR. The Authority notes that the Draft and Final Program EIRs evaluated alternatives that would terminate in San Jose and not travel up the Peninsula on the Caltrain Corridor. These alternatives included Altamont Pass Network Alternative with Oakland and San Jose Termini; Altamont Pass with San Jose Terminus; Altamont Pass with San Jose, Oakland and San Francisco via Transbay Tube; Pacheco Pass with Oakland San Jose Termini; Pacheco Pass with San Jose Terminus; Pacheco Pass with San Jose, Oakland, and San Francisco via Transbay Tube; Pacheco Pass with Altamont Pass (local service) with Oakland and San Jose Termini; and Pacheco Pass with Altamont pass (local service) with San Jose Terminus.

The description and full evaluation of these network alternatives were not circulated in the 2010 Revised Draft Program EIR Material, but clarification of the description and evaluation of portions of these alternatives, specifically between San Jose and Gilroy, were provided in response to the Superior Court ruling in Town of Atherton.

The Authority will make a new decision on a network alternative to carry into the project level environmental document. The alternatives that avoid the Caltrain corridor are not the staff recommended network alternative, but will be considered by the Authority as part of the new decision. Public comments supporting terminating HST service in San Jose will be part of the record that the Board considers.

O004-28

This is not a topic area identified by the Superior Court judgment in the Town of Atherton case as needing additional CEQA work. The Court found the range and study of alternatives in the 2008 Final Program EIR adequate. Proposition 1A does not address the selection of an operator for the HST system.

O004-29

Proposition 1A designates the corridor from San Francisco to Los Angeles and Anaheim as Phase 1 of the HST system, and indicates that it is not intended to prejudice the Authority's determination and selection of the alignment from the Central Valley to the San Francisco Bay Area. See Streets and Highways Code section 2704.04(b)(2) and (4).

O004-30

The Authority acknowledges the trackage rights agreement between UPRR and the PCJPB. This agreement is identified in the Revised Draft Program EIR and referenced in that document. Please see Standard Response 9 (UPRR) responses to the comment letter from the Union Pacific Railroad (UPRR) – comment letter O002. Please see also O012-14. The Authority has not concluded that the trackage rights agreement between UPRR and the PCJPB renders the alignment between San Francisco and San Jose infeasible.

O004-31

The Revised Draft Program EIR Material addresses those topics identified in the final judgment for the Town of Atherton litigation as requiring corrective work under CEQA. Biological resources and agricultural lands were not part of those topics. The 2008 Final Program EIR, noted that the Authority, or other entities designated and supported by the Authority would acquire, from willing sellers, agricultural conservation easements encompassing at least 3,500 acres of important farmland (as defined by the FMMP). The eventual locations and total acreage for these easements would be determined in consultation with the California Department of Conservation, and others, and in conjunction with project-level decisions of the HST system. In addition, Chapter 3.15 of the 2008 Final Program EIR noted that the Authority, or other entities designated and supported by the Authority would acquire, from willing sellers, agricultural, conservation and/or open space easements encompassing at least 10,000 acres and generally located

along or in the vicinity of the HST alignment and within or adjacent to the designated GEA. The focus for these easements was to be in areas undergoing development pressures, such as the areas around Los Banos and Volta, and/or areas that would be most appropriate for ecological conservation or restoration. The eventual locations and total acreage for such easements would be determined in consultation with the CDFG, the USFWS, and the Grassland Water District and in conjunction with project-level decisions addressing the Gilroy to Merced portion of the HST system. Also see Standard Response 3. Although the Authority's decisions concerning the 2008 Final Program EIR have been rescinded, the described commitment regarding easements related to the 2008 Final Program EIR illustrates the type of commitment that is expected to be included in any new decision by the Authority to select a network alternative for further study. After a new certification decision and after a new decision to select a network alternative, a much greater level of detail would be provided for such mitigation at the project-level.

O004-32

The area of climate change is not one of the areas identified by the court for additional CEQA compliance, nevertheless, we provide this response. The May 2008 Final Program EIR/EIS included a discussion of the impacts associated with the project on climate change in chapter 3.3, Air Quality and Global Climate Change, that we believe fully complies with the requirements of CEQA and is consistent with the recommendations of the California Attorney General. The Final Program EIR explained greenhouse gases, their relationship to climate change, and the transportation sector's contribution of greenhouse gas emissions nationwide. 2005 baseline conditions for C02 emissions were quantified, as were conditions under the Pacheco and Altamont base case network alternatives for reductions in air travel, auto travel, and for electric power consumption. The text also provided the percentage reduction of C02 emissions for the base Pacheco and base Altamont network alternatives on a statewide basis from the no project alternative. The conclusion is that the HST system statewide would result in a net reduction in GHG emissions. This analysis satisfied CEQA. We also note that the California Air Resources Board has identified the high-speed train system as "part of the statewide strategy to provide more mobility choice and reduce greenhouse gas emissions." (ARB, Climate Change Scoping Plan, p. 56.).

O004-33

The 2005 Final Statewide Program EIR/EIS and the 2008 Final Program EIR for the Bay Area to Central Valley High-Speed Train explained that locating the HST system along or adjacent to existing rail or transportation rights-of-way results in fewer environmental impacts than creating an entirely new transportation corridor. For this reason, the network alternatives in the 2008 Final Program EIR and as further discussed in the 2010 Revised Draft Program EIR Material were configured along existing rail and transportation facilities to the maximum extent possible for both Pacheco Pass and Altamont Pass. This effort to minimize environmental impacts has resulted in concerns expressed by UPRR which are discussed at length in the 2010 Revised Draft Program EIR Material. As disclosed in Chapter 4, there is no prohibition to acquiring property adjacent to a right-of-way owned by a private railroad. As further discussed in Chapter 4, the Authority's position is that it can develop design options for the HST that allow the project to go forward while also avoiding interference with UPRR freight operations. See also Standard Response 9.

O004-34

Comment noted. The Authority's tiering process has been designed to allow for broad, program-level decisions about project location and general design. We disagree that the program level decision making is being done "fast." The environmental process for the HST system as a whole commenced in 2000 with the Statewide High-Speed Train EIR/EIS, including an examination of the HST location in the San Francisco Bay Area. The current EIR process is the second program EIR to consider how the HST system can connect the San Francisco Bay Area and the Central Valley. This second program EIR commenced in 2005.

O004-35

Impacts on land uses along the Caltrain Corridor, including impacts on parks, are identified in the 2010 Revised Final Program EIR and are considered significant at the program level, even with mitigation. The Authority acknowledges the potential for litigation regardless of the network alternative it selects. Regarding economic impacts, see Response to Comment O004-13. Regarding the comparative impacts, see Response to Comment O004-36.

O004-36

We disagree with this comment. The Caltrain Corridor provides an existing, publicly owned rail right-of-way that the HST system could utilize to reach San Francisco from San Jose. The Caltrain Corridor does minimize a variety of environmental impacts in comparison to other potential alignments that cannot take advantage of an existing publicly owned right-of-way to locate HST tracks. We note that the Revised Final Program EIR does not state that use of the Caltrain Corridor avoids or eliminates environmental impacts. The Revised Final Program EIR, including the May 2008 Final Program EIR text, identifies the significant environmental impacts of the HST project along the Caltrain Corridor. The Revised Final Program EIR includes multiple alternatives that do not use the Caltrain Corridor. Finally, the comment suggests that the Authority "search hard for alternatives to get from the Central Valley to Sacramento that will no impinge on the UPRR right of way, or use the Caltrain corridor on the Peninsula." The underlying purpose and project objective for the HST system is to connect the major metropolitan centers of southern California and northern California and the EIR at issue involves how that connection will be made with the San Francisco Bay area's major cities, not with the connection between Sacramento and the Central Valley.

Comment Letter O005 (Brian K. Grayson, Preservation Action Council of San Jose, April 22, 2010)

O005

Kris Livingston

From: brian grayson [brian@preservation.org]
Sent: Wednesday, April 21, 2010 12:33 PM
To: HSR Comments
Subject: Bay Area to Central Valley Revised Draft Program EIR Material Comments
Attachments: HSR EIR Comments126.pdf; ATT00001.htm

Attached, please find our comments.

Thank you.

Brian Grayson
Executive Director
Preservation Action Council of San Jose
PO Box 2287
San Jose, CA 95109
408.998.8105

1

PRESERVATION ACTION COUNCIL OF SAN JOSE

Dedicated to Preserving San Jose's Architectural Heritage

April 22, 2010

Dan Leavitt
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Attn: Bay Area to Central Valley Revised Draft Program EIR Material Comments

Dear Mr. Leavitt:

Preservation Action Council of San Jose (PAC-SJ) is dedicated to preserving San José's architectural heritage through education, advocacy, and events. We aim to integrate a strong commitment to historic preservation into the land use and development decisions of the City of San José that affect historic resources, as well as into the decisions of property owners and developers. We try to bring owners and developers together to create historically sensitive projects that make economic sense. We are pleased to have the opportunity to comment on this project.

This letter is divided into two sections, comments regarding changes in the revised EIR and a discussion of cultural resources in San Jose and your assessment of impacts.

Changes in the draft revised EIR:

O005-1

PAC-SJ applauds the inclusion of the Horace Greeley Keesling shade trees within the revised cultural resource list as well as the Authority's plan to work with SHPO during the subsequent project-level EIR. Mr. Keesling was an important turn of the 20th Century agricultural specialist whose writings were widely published. Early in his career, he was known for his poultry knowledge, editing the *Cackler*, a poultry journal. Subsequently he focused on orchard crops, editing the *California Farmer* and writing a column for newspapers. He delved into insect control and development of cultivars. Keesling's walnut tree cultivars, named "*Keesling*" and "*Seedling No. 2*" were acknowledged in scientific press. The *Keesling* black walnuts he planted along Monterey Highway stretched from San Jose's Edenvale District to Gilroy. The trees were purchased by the publisher of the *San Jose Mercury*, O.A. Hayes. In later life, Keesling was well known for his work with flowers. Frequently compared to Luther Burbank of Santa Rose, he is

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PACSJ is a 501 (c) 3 non-profit organization. EIN: 77-0254542

Comment Letter O005 - Continued

less well known in modern times.

The *Keesling* shade trees should be retained as a cultural historic district and high speed rail designs should reflect the need to retain them. We support an elevated alternative in the median of Monterey Highway (Figure PP11) which would protect the greatest number of trees, and provide the most degrees of freedom with grade separations and mitigations from traffic impacts from reducing Monterey Highway from 6 to 4 lanes. O005-1 cont.

The draft revised EIR indicates there are a number of cultural resources along the alignment in the San Jose area. Since the resources are not enumerated, we are unable to determine which sites are already included. The following paragraphs describe sites that are within the nexus of the alignment. We are concerned that impacts are described as "low" in the absence of a list to determine which sites may have been omitted:

1. Tamien Station site (CA-SCL-690) - The excavated portion of this Ohlone burial site is located within the current station's parking lot, but the official report described the potential for additional sites nearby. Very little time was allowed by Caltrans to explore the site fully. Construction as shown in figure PP8 or PP10 has the potential of disturbing the outer margins of this rich burial site. Several researchers indicate this may be one of the most important sites of the South Bay Area.

2. Several pre-history sites were found in the San Juan Bautista hills (also known as Dairy Hill or Communications Hill) near Azevedo Gap, which is the railroad cut from Curtner to Lick. Spanish journals indicate an Ohlone tribelet living near Arroyo Tulares de los Canoas which originally ran along the western foot of the hills and then wrapping to the north crossing the current rail right of way north of Curtner Avenue. The dense sycamore forest found in the area and year-round water flow suggests a high potential for additional sites. O005-2

3. Diridon Station - This brick structure is on the National Register of Historic Places. The double-decked structure behind the station will diminish the sense of importance of the structure, suggesting the aesthetic impact is high. Pile driving for elevated structures will risk the integrity of the building due to vibration impacts.

4. Cal Pak District Manager Office, 734 The Alameda - This City landmark is within 500 feet of the existing right of way. The brick building is at risk from construction vibration impacts.

5. Orchard Supply Hardware Store, West San Carlos Street - The 280-87 alternative mentioned on page 3-5 passes through this property. How will the structure itself be affected?

6. Greater Gardner Neighborhood - This streetcar suburb is currently undergoing investigation for a city historic conservation area. Increasing the number of trains from a maximum of 5 per hour to 25 per hour is an aesthetic impact. Homes along Jerome Street are over 80 years old. Using heavy equipment to construct retained fill embankment by accessing their backyards will severely impact their foundations. Pile driving vibration is a significant impact.

7. West San Carlos Viaduct is on the San Jose Historic Inventory. The elevated structure in PP-7 will tower over the viaduct and reduce its historic context. The aesthetic impacts are significant. Will the structure be retained?

8. Multiple historic structures along Stockton Avenue have the potential for aesthetic and construction impacts. A tower aerial structure will remove the context for these historic structures: Smith Manufacturing (120), Western Elevator Manufacturing (138), Gandolf Industries (530), Thermolite Construction (580), and San Jose Frosted Foods (630) and (417). O005-2 cont.

9. College Park Commuter Station - This historic structure remains at Stockton Avenue near Emory.

10. Del Monte Plant 51, 88 Bush Street - Has been adapted for use as condominiums while retaining exterior integrity. How close will the elevated structures and station, with its 4 tracks, 2 spurs and passenger platforms come to the condo? Aesthetics impacts is significant with the reduction of nearly all light to these homes.

11. Tom Shugishita Residence, 9000 Monterey Road - Built in 1863 and on San Jose's Historic Inventory. Located in Coyote.

Thank you for the opportunity to comment. We urge your serious consideration of the issues we have raised and PAC-SJ looks forward to working with HSR to identify impacts and mitigations as the project moves forward.

Sincerely,

Brian K. Grayson
Executive Director

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Response to Letter O005 (Brian K. Grayson, Preservation Action Council of San Jose, April 22, 2010)

O005-1

A detailed impacts analysis of the addition of the HST service along the Monterey Highway corridor is currently underway as part of project level engineering and environmental analyses. Removal of mature trees, including Keesling's Shade Trees will be avoided to the extent possible. Operational and construction impacts including those related to the removal of trees along the corridor will be addressed as part of a project-level EIR/EIS. Under Section 106 of the National Historic Preservation Act (36 CFR § 800), the procedures to be followed at the project level include identification of resources, evaluation of their significance under the National Register of Historic Places and CEQA, identification of any substantial adverse effects, and evaluation of potential mitigation measures. Specific resources within the Area of Potential Effects will be further examined in detail at the project level because the identification of potentially affected resources and project effects and mitigation are dependent on the HST location and system design, and can only be done at the project level. See Standard Response 3 and Response to Comment L003-79.

O005-2

See Responses to Comments O005-1 and L003-79. Resources are included in the 2008 Final Program EIR, Appendix 3.12-A.

Comment Letter O006 (Amanda Eaken, Natural Resources Defense Council, April 26, 2010)

O006

Kris Livingston

From: Eaken, Amanda [aeaken@nrdc.org]
Sent: Monday, April 26, 2010 4:24 PM
To: HSR Comments
Cc: Eaken, Amanda
Subject: Bay Area to Central Valley Revised Draft Program EIR Material Comments
Attachments: NRDC Comments 4-26-10 FINAL.pdf

Amanda Eaken
Land Use Policy Analyst
Natural Resources Defense Council
111 Sutter Street, 20th Fl.
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NRDC
THE EARTH'S BEST DEFENSE

April 26, 2010

Dan Leavitt
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Bay Area to Central Valley Revised Draft Program EIR Material Comments

Dear Mr. Leavitt,

The Natural Resources Defense Council was one of the original supporters of Proposition 1A, and we firmly believe in high-speed rail's potential to provide California with a world class transportation option, revitalize our central valley cities and significantly reduce greenhouse gas emissions. O006-1

As you move forward with implementation, we offer the following two comments:

Avoid Impacts to the Grasslands Ecological Area (GEA)

At 180,000 acres, the GEA contains the largest contiguous block of remaining wetland habitat in California. Officially designated a *Wetland of International Importance* under the Ramsar Convention in 1999, the GEA is one of only 22 sites in the U.S to receive this recognition. Near the height of its season in 2005, the Grasslands Ecological Area was host to more than 1,000,000 waterfowl and shorebirds. In addition to waterbirds, the GEA is host to 29 threatened and endangered species. Any project that proposes to significantly impact such a rich natural area should include a serious and thorough analysis of alternatives. We strongly encourage you to re-examine other alignments that may avoid impacts to the GEA. Please see the USFWS letter dated September 27, 2007 for more details. O006-2

Re-analyze Altamont Alignment for its Potential to Provide a Regional Commute Option

California is facing severe infrastructure funding shortages. Any investment of $40B+ for new infrastructure must serve as many diverse transportation needs as possible. Recent demands for widening of Highway 580 indicate a strong unmet need for additional travel capacity between the Central Valley and the Bay Area along this corridor. High Speed Rail through the Altamont Pass alignment presents an opportunity to serve this regional travel demand with a clean, sustainable transportation option, while the Pacheco alignment misses this opportunity. We recommend selecting an alignment that maximizes the potential to serve as an additional inter-regional travel option to alleviate the Highway 580 congestion. Traffic congestion is a major source of air pollution and degraded O006-3

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Comment Letter O006 - Continued

quality of life for hundreds of thousands of households in the Bay Area and the Central Valley. HSR should help to address this situation – by providing a real alternative commute option through a heavily congested corridor. O006-3 cont.

We thank you for your commitment to selecting the alignment that minimizes environmental impact and maximizes environmental gain, and we look forward to working with you to make high speed rail a reality for California. O006-4

Sincerely,

Amanda Eaken

Land Use Policy Analyst

Response to Letter O006 (Amanda Eaken, Natural Resources Defense Council, April 26, 2010)

O006-1

Comment acknowledged.

O006-2

The Revised Draft Program EIR Material addresses those topics identified in the final judgment for the Town of Atherton litigation as requiring corrective work under CEQA. Biological resources was not one of those topics. The Authority and FRA have committed to investigating site-specific location and design alternatives, including avoidance and minimization alternatives, during the Tier 2, project-level environmental review. This includes evaluating design alternatives to the north and south of the current proposed Henry Miller alignment alternative. See response to comment O004-31 and see Section 3.15 of the 2008 Final Program EIR regarding the Authority's commitment to acquire agricultural, conservation, and/or open space easements for potential impacts in and around the GEA. Also see the response to the U.S. Fish and Wildlife letter dated September 27, 2007 in the 2008 Final Program EIR Responses to Comments letter F005 (page 20-16).

O006-3

Comment acknowledged. The rationale for the recommendation to select the Pacheco Pass alternative is provided in Chapter 6 of the Revised Program Materials. The primary purpose of the HST system is serve intercity trips between California's major metropolitan areas. In addition, the HST system must have passenger revenues which exceed operational costs, whereas commuter systems almost always require significant operational subsidies. Please refer to MTC's Bay Area Regional Rail Plan which is consistent with the recommendation to select the Pacheco Pass for the HST system, but also recommends implementation of a vastly improved rail infrastructure in the Altamont Corridor focused on providing a competitive commute option between the Northern San Joaquin Valley and the Bay Area.

O006-4

Comment acknowledged. The Authority staff have recommended the Pacheco Pass Network Alternative serving San Francisco via San Jose as the preferred network for further evaluation. As explained in Chapter 7, Authority staff have concluded that this network alternative is preferred in part, because it minimizes certain types of environmental impacts.

Comment Letter O007 (Jacob Park, San Francisco Bay Railroad, April 26, 2010)

O007

Kris Livingston

From: Dan Slavin [dslavin@Graniterock.com]
Sent: Monday, April 26, 2010 12:59 PM
To: Jacob Park; HSR Comments
Cc: Jim Maloney; Greg Greenway
Subject: RE: Bay Area to Central Valley Revised Draft Program EIR Material Comments

Great Job Jake

-----Original Message-----
From: Jacob Park [mailto:jacob@sfbayrail.com]
Sent: Monday, April 26, 2010 11:33 AM
To: comments@hsr.ca.gov
Cc: Dan Slavin; Jim Maloney; Greg Greenway
Subject: RE: Bay Area to Central Valley Revised Draft Program EIR Material Comments

Dan Leavitt - There is no environmental benefit to this high speed rail project if cars are removed from the freeways and trucks are put in their place. Freight rail must not only stay on all shared corridors it must be allowed to grow for the future. The shared corridor between San Francisco and San Jose must be built to California Public Utilities Commission (CPUC) General Order 95 Standards. This is not Germany, France or Japan and even though we plan to build a system similar to those built overseas we must enhance their trains to build out a better rail system that allows for freight and passenger trains. The high speed rail line is being built for 100 years of service and freight rail must be included in that. The United States moves over 50% of all cargo by rail when Europe moves less than 15%. Trucks are far more polluting than cars. It makes no sense to subsidize a passenger rail system that will remove or harm a competitive, environmentally beneficial and profitable freight rail system. I support the idea of high speed rail and I know that if it is built I will take it over flying and driving. O007-1

I also want our state to have, maintain and improve the ability to ship freight by rail with out being hampered by high speed rail. Built it now but build it right the first time! Learn from the experts and improve their design. O007-2

Thank you.

Jacob Park
Vice-President
San Francisco Bay Railroad
100 Cargo Way @ Pier 96 Railyard
San Francisco, CA 94124

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Response to Letter O007 (Jacob Park, San Francisco Bay Railroad, April 26, 2010)

O007-1

See Standard Response 9 regarding UPRR.

O007-2

See Standard Response 9 regarding UPRR.

Comment Letter O008 (Elaine Breeze, San Mateo County Economic Development Association, April 20, 2010)

O008

Kris Livingston

From:	Rosanne Foust [rfoust@samceda.org]
Sent:	Wednesday, April 28, 2010 1:30 PM
To:	HSR Comments
Cc:	Moses Kopmar; Christine Madrigal
Subject:	Bay Area to Central Valley Revised Draft Program EIR Comments
Attachments:	SAMCEDA comment per Revised Program EIR BA-CV.doc

Please see the attached letter. We hope that you will accept these comments for the Bay Area to central Valley Revised Program Level EIR.

Rosanne Foust
Acting President & CEO
San **M**ateo **C**ounty **E**conomic **D**evelopment **A**ssociation (**SAMCEDA**)
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San Mateo County Economic Development Association

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SAMCEDA STAFF
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Manager of Operations & Research

April 20, 2010

Dan Leavitt
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

RE: Bay Area to Central Valley Revised Draft Program EIR Material Comments

On behalf of the SAMCEDA Board of Directors, I am writing to urge the California High Speed Rail Authority (CHSRA) Board of Directors to retain the current preferred alignment for high-speed rail between the Central Valley and San Francisco by recertifying the project's Revised Draft Program Environmental Impact Report (EIR). O008-1

SAMCEDA has been a strong advocate for a high-speed rail and an electrified and modernized Caltrain system between San Jose and San Francisco. The current alignment has been subject to extensive study and was chosen as the preferred route over several other alternatives. While the Sacramento County Superior Court's ruling in the Town of Atherton, et al., v. CHSRA compelled further study to correct minor technical deficiencies in the original Program EIR, the ruling also unequivocally upheld the original determination that the Pacheco Pass alternative, traveling through San Jose and along the Caltrain corridor to San Francisco, is environmentally superior to other options including the Altamont Pass alternative and the U.S. Highway 101 or I-280 alternative through the Peninsula. O008-2

The delivery of high-speed rail will provide the California with a safe, reliable and efficient transportation alternative that will accommodate the state's growing population at a significantly lower cost, both economically and environmentally, than building additional roads and freeways. O008-3 As planned along the Caltrain corridor on the Peninsula, the project would also offer dramatic benefits to the Bay Area region. O008-4

The section of high-speed rail between San Jose and San Francisco was included in the Authority's application for American Recovery and Reinvestment Act (ARRA) funding, which successfully secured $2.25 billion for the project. Investment in the Bay Area section will result in the creation of over 34,000 jobs and provide a critical opportunity for regional economic recovery. O008-5

FLY CALIFORNIA
Without ever leaving the ground.

Comment Letter O008 – Continued

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In addition, investment in this section will fund capital improvements that are not only necessary for the delivery of high-speed rail, but also essential to future Caltrain commuter rail service on the Peninsula. The modernization and electrification of Caltrain will lower operating costs and increase ridership, establishing a sustainable financial model for one of the nation's already most utilized (by ridership) commuter rail systems that will also be able to accommodate future job and population growth in the region. O008-6

Maximizing job creation and fully supporting the preservation of Caltrain commuter rail service will require CHSRA to invest funding in accordance with strict deadlines included in ARRA. Any action to alter the current alignment would eliminate any benefit for local commuter rail service and would result in substantial delays, putting CHSRA at risk of losing critical federal funding, and hundreds of thousands of California jobs at risk of not being created. This would not only cancel the project's regional mobility and economic benefits, it would also represent the selection of a previously rejected and environmentally inferior alternative. O008-7

I look forward to our continued collaboration. Please feel free to contact me with any questions or concerns.

Sincerely,

Elaine Breeze
Chair of the Board, SAMCEDA

1301 Shoreway Road, Suite 150 | Belmont, California 94002 | P 650.413.5600 | F 650.413.5909 | www.samceda.org

Response to Letter O008 (Elaine Breeze, San Mateo County Economic Development Association, April 20, 2010)

O008-1

The commenter urges certification of the EIR. Comment acknowledged.

O008-2

The commenter believes that the Pacheco Pass Alternative is the environmentally superior alternative. Comment acknowledged.

O008-3

Comment acknowledged.

O008-4

Comment acknowledged.

O008-5

Comment acknowledged.

O008-6

Comment acknowledged.

O008-7

Comment acknowledged.

Comment Letter O009 (Elizabeth Goldstein Alexis, CAARD, April 26, 2010)

O009

Kris Livingston

From: Elizabeth Goldstein Alexis [ealexis@gmail.com]
Sent: Monday, April 26, 2010 10:53 PM
To: HSR Comments
Cc: Rita Wespi; Nadia Naik; Sara Armstrong; Emslie, Steve
Subject: Bay Area to Central Valley Revised Draft Program EIR Material Comments
Attachments: CARRD Ridership Comments 2010 April 26.pdf

Please accept the following comments from Californians Advocating Responsible Rail Design. These comments are specifically on ridership related issues. CARRD will be submitting additional comments on other subjects.

1

CA RR D Californians Advocating Responsible Rail Design

Californians Advocating Responsible Rail Design (CARRD) has made numerous public comments attesting to its concerns about the ridership study. We will attach a brief summary of those concerns and make Elizabeth Alexis, the CARRD founder who has focused on these issues, available for consultation.

If the High Speed Rail Authority, however, decides to continue using the current framework and model, we would offer the following comments.

As MTC and several other regional transit agencies' support for the Pacheco alternative was explicitly based on the higher ridership for Pacheco, a true accounting of the potential relative ridership of the different alignments is crucial.

One of the explicit goals of the ridership study was to start with a given set of alternatives and then use the results to improve the alternatives, in terms of specific alignments and service attributes. The following numbers are from the Final Report:

Alignment	Alignment Description	Ridership
A1	Altamont to SJ and SF	87,910,000
A4	Altamont to SJ only	94,650,000
P1	Pacheco to SJ and SF	93,890,000
P2	Pacheco to SJ and SF AND Oakland	86,080,000
P4	Pacheco to SJ only	80,040,000

O009-1

A Pacheco train (P4) that only served San Jose was forecast to have 80 million riders. Adding service to San Francisco (P1) added over 13 million riders. Adding a branch from San Jose to Oakland (P2) to the San Francisco branch, which would extend service to the length of the East Bay, resulted not in the addition of millions of additional riders, but the loss of almost 8 million riders.

Altamont train alignments that only served one of the three major Bay Area destinations all had higher ridership than the main Pacheco alignment. For example, Altamont service to just San Jose had almost 95 million riders. Adding service from Fremont that would allow direct trains to San Francisco caused the loss of almost 7 million riders.

Comment Letter O009 - Continued

CA RR D Californians Advocating Responsible Rail Design

The explanation given in the Final Report and one that we would now concur with given the January 2010 release of the frequency coefficients and the very recent release of train frequencies is that the model heavily penalized train-splitting.

[Please note: in the information STILL referenced by the EIR, the frequency sensitivity is given as a very modest number with an explanation that for long distance travel, frequency is more about scheduling convenience and not about waiting for a train. In urban transit systems with frequent service, passengers will simply show up and they end up waiting, on average, half the headway for a train. This particular coefficient would not have explained the pattern of ridership in the study as being attributable to train-splitting.]

O009-1

In fact these numbers suggest **that the train-splitting penalty could be as much as 20 million riders**, twice as much as the entire Northeast corridor ridership. This number is calculated by looking at the Pacheco numbers to see how many riders were gained by adding service, without train-splitting, and looking at how many riders each alternative lost by adding service with a split.

Study an Altamont Alignment that would serve San Francisco and San Jose on one route

While we would argue that the magnitude of this penalty is more an indication of problems with the model than an accurate representation of reality, if the Authority stands by the model, it should then have planned routes according to the data in accordance with its stated intent in the Second Peer Review report:

"For all modes, service must first be assumed, and then we can apply the models to produce demand that is produced with that service. Service can be adjusted to better match demand after initial ridership is produced; this is typically referred to as an equilibration process."

The ridership study demonstrates that the cost of lower train frequencies and the penalty for train-splitting is much greater than differences in travel times and overwhelms adding direct service to additional areas.

O009-2

The ridership study examined well over 50 different alignment alternatives. The only alternative that does not seem to have been studied is an alignment that would enter the Bay Area via the Altamont Pass, stop in San Jose and then travel up the Peninsula along the Caltrain corridor to San Francisco.

CARRD is not advocating for this alignment, but the results from the ridership study imply that it would have much higher ridership than the other alignments analyzed, at a similar or lower cost.

In this case, a route up the Peninsula from San Jose should clearly have been the focus of study once the initial ridership results were in. This would have added service without incurring the penalty and avoided environmental.

Make adjustments to account for

One of the reasons that the train-splitting penalty was so high was that off-peak headways were actually quite high. Mathematically, the train-splitting penalty is calculated by adding one minute

CA RR D Californians Advocating Responsible Rail Design

of travel time for every minute of headway (headways indicate how frequently the trains come. A schedule with 4 trains an hour would have 15 minute headways).

Thus the train-splitting penalty was a function of the absolute level of headways (one hour headways for the main Pacheco were like adding 30 minutes onto each Altamont train, two hour headways added 15 minutes of travel time to Altamont trains, 30 minute headways added 15 minutes).

CARRD recently made a site visit to MTC and was able to obtain what are believed to be the actual headways used in the analysis. These were not publicly available and the Authority has still not provided confirmation or denial that these are the headways. It is clear, however, that the headways in the publicly available documents are NOT those used in the ridership study.

These show very high off-peak headways, particularly for stations other than trains among San Diego, Los Angeles, San Francisco and San Jose stations.

Route	Headway (minutes)
Millbrae (SFO) – Fresno via Pacheco	2 hrs 51 minutes
San Jose – Anaheim via Pacheco	1 hr 58 minutes
San Jose – Sylmar via Altamont	5 hrs 4 minutes

O009-2 cont.

There are several important things to note.

In "real-life", if frequent trains are important, people will generally shift travel to time periods with more frequent service. In this study, everyone other than business and commute traffic had no choice but to travel during the off-peak travel period, which offered significantly lower levels of service compared to the peak travel period.

In fact, according to Table 6.3 of the Validation Report, approximately 80% of the trips currently constrained to occurring during off-peak infrequent service times take place during peak travel periods.

In addition, those living in an urban area such as the Bay Area or the Los Angeles basin have many stations and airports from which to choose. If a plane or train is not available at a convenient time, it is reasonable to assume that a traveler would simply change their origin station/ airport.

Indeed, this dynamic is apparent in California air markets. It is such a well-known phenomenon that the ridership consultant, Cambridge Systematic, assumed that headways from any Bay Area or LA airport were half of the actual headway to account for the fact that travelers have multiple airports to choose from.

Comment Letter O009 - Continued

CA RR D Californians Advocating Responsible Rail Design

From table 2.22 in the LOS report: "Headways from San Francisco to Los Angeles region airports were assumed to be half the quoted headway because most travelers have more than one airport choice and therefore have twice as many air trips to choose from."

For example, the model assumes someone who lives in Los Angeles who is one minute closer to the Norwalk station than Los Angeles Union Station (LAUS) will ONLY travel from the Norwalk station, even though LAUS offers significantly more frequent service.

Under the math of the current model, someone who lives in the current Norwalk station catchment area would be willing to drive several hours to get to a station with better service. Unfortunately, the current model does not allow a passenger to go one mile out of their way. O009-2 cont.

This dynamic means that the effective service differences introduced by train-splitting are exaggerated as travelers to/or from the Bay Area would be expected to overcome the very high headways that exist in the off-peak periods by traveling to/from a different station or at a different time.

There should either be a "station selection" model or an adjustment to certain headways to apply the same reasonable logic that is used for air travel to long-distance high speed rail travel.

Rerun numbers with current "optimal" schedule

The attached email from Nick Brand describes the evolution of a service schedule to an "optimal" schedule. Not surprisingly given what we now know about the frequency coefficient and the off-peak travel schedule, increasing off-peak service dramatically increases ridership.

Subsequent to the study (which was finished in July 2007) but prior to the commencement of this draft version of the Program EIR, Parsons Brinkerhoff determined that much higher levels of off-peak travel were warranted. Off peak trains were increased from 60 trains per day to 140 trains.

The intent of the study was clearly to use information learned in the study to optimize the schedules. Given that the primary learning was that headways, particularly during off-peak periods, mattered and that headways were a significant differentiator between the Altamont and Pacheco routes, it is surprising that such optimization did not occur during the course of the original study. O009-3

This more than doubling of off-peak trains significantly lowers headways, which if incorporated into the ridership study would have dramatically lowered the train-splitting penalty, which was proportional to the headways.

The forecasts for the primary Altamont and Pacheco routes (as well as A4 and the new proposed Altamont route up the Peninsula) should be re-run with the optimized schedule.

Re-run Pacheco with two San Francisco stations O009-4

CA RR D Californians Advocating Responsible Rail Design

The California High Speed Rail Authority board took affirmative action at its April 8, 2010 meeting to endorse a two station alignment, based on capacity constraints of Transbay Terminal. The PB Transbay Memo indicates that a second terminal would be required to handle the planned number of trains.

Presumably, such a split in San Francisco would not be required with an Altamont alignment in which some trains terminated in San Jose. O009-4 cont.

The ridership numbers should be re-run to reflect this capacity constraint and subsequent train splitting. The capital costs should also be recalculated to incorporate an additional terminal station.

Analyze ridership potential for main Altamont and Pacheco (two SF terminal variations) for Phase 1

Subsequent to the original Program EIR, California voters passed Proposition 1A which provided bond funding for the High Speed Rail Project.

This bond measure prioritized construction of the phase 1 route, from San Francisco to Anaheim.

There is currently no funding available for extensions to Sacramento and San Diego and the 2009 Business Plan makes clear that any system profits will go to the private investors in the system. O009-5

Thus, it is reasonable to presume that for a period of years only the Phase 1 route will be in place and it is possible that the full system is never completed.

The Program EIR should analyze the ridership potential of the main Pacheco and Altamont alignments, using the Phase 1 route.

Provide station catchment areas for Bay Area stations

Maps showing station catchment areas for Los Angeles area stations were produced as part of the 2009 Business Plan Addendum. The same maps should be created and included for Bay Area stations, to help understand the potential local traffic impacts as well as plausibility of forecasts. O009-6

Comment Letter O009 - Continued

CA RR D Californians Advocating Responsible Rail Design

General concerns with the ridership model

Too high costs of driving. The study used a survey in which the cost of driving was explicitly fuel costs only. The forecasts inappropriately use a multiple of fuel costs (1.6x fuel costs) as an input. According to a recent Cambridge Systematics review of another ridership study (available at http://www.fra.dot.gov/downloads/rrdev/Appendix_B_Ridership_Forecast_Review.pdf): "Usually, auto travelers will consider their cost of travel to be only their out-of-pocket gas costs. Thus, in most intercity travel models, auto costs are generally in the range of $0.10 to $0.15 per mile. While higher per mile costs are more consistent with the true costs of driving (including operating, maintenance, and ownership costs), they are generally not considered by travelers for specific travel decisions." O009-7

Reliance on stated preference data for main mode choice model. Stated preference data has known issues that bias estimation results. Because of this, the study design specifically stated that both revealed preference and stated preference data would be used. For some reason, only stated preference was used. In the calibration process, this resulted in very large mode specific constants that highlight the bias that in fact was present in the study sample. O009-8

Sampling issues. There were only 27 long distance commuters surveyed which resulted in a decision to constrain the long distance commute market to the same coefficients as the business model. This meant that long distance commuters were given a value of time of $64 as opposed to shorter distance commuters whose time was originally valued at less than $5/ hour before being constrained. In addition 96% of short term commuters were current train commuters. The sample also specifically excluded travelers to and from regions such as the AMBAG area, which end up being a significant factor in Pacheco's ridership. O009-9

Frequency coefficient. The frequency coefficient was arbitrarily constrained to be the same as the time coefficient. This is inconsistent with the general literature on long distance intercity travel and 3 to 4 times higher than the coefficient for frequency used in the original Charles River Associates study and 5 times higher than the original results indicated. As the study repeatedly points out, frequency represents scheduling convenience, not waiting time. O009-10

Documents incorporated by reference

Bay Area/California High-Speed Rail Ridership and Revenue Forecasting Study Findings from the First Peer Review Panel Meeting, Cambridge Systematics, Inc., July 2005.
· Bay Area/California High-Speed Rail Ridership and Revenue Forecasting Study Findings from the Second Peer Review Panel Meeting, Cambridge Systematics, Inc., July 2006. **"Second Peer Review"**
· Bay Area/California High-Speed Rail Ridership and Revenue Forecasting Study Model Design, Data Collection, and Performance Measures, Cambridge Systematics, Inc.; with Citilabs; Corey, Canapary & Galanis; HLB Decision Economics; Mark Bradley Research and Consulting; and SYSTRA Consulting, May 2005.
· Metropolitan Transportation Commission High-Speed Rail Study, Overview and Documentation of Surveys (Air/Rail/Auto Trips), Corey, Canapary & Galanis, December 2005.
· Bay Area/California High-Speed Rail Ridership and Revenue Forecasting Study Socioeconomic Data, Transportation Supply, and Base Year Travel Patterns Data,

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Cambridge Systematics, Inc., December 2005.
· Bay Area/California High-Speed Rail Ridership and Revenue Forecasting Study Interregional Model System Development, Cambridge Systematics, Inc., with Mark Bradley Research & Consulting, August 2006. "**Model Development**"
· Bay Area/California High-Speed Rail Ridership and Revenue Forecasting Study Statewide Model Networks, Cambridge Systematics, Inc., July 2007.
· Bay Area/California High-Speed Rail Ridership and Revenue Forecasting Study Statewide Model Validation, Cambridge Systematics, Inc., March 2007. **"Validation Report"**
· Bay Area/California High-Speed Rail Ridership and Revenue Forecasting Study Levels of Service Assumptions and Forecast Alternatives, Cambridge Systematics, Inc., with SYSTRA Consulting, Inc.; and Citilabs, August 2006. **"LOS Report"**
· Bay Area/California High-Speed Rail Ridership and Revenue Forecasting Study Ridership and Revenue Forecasts, Cambridge Systematics, Inc., August 2007.
·Bay Area/California High-Speed Rail Ridership and Revenue Forecasting Study Final Report, Cambridge Systematics, Inc., July 2007.**"Final Report"**
Review of Transbay Transit Center Design of March 9, 2010, Parsons Brinkerhoff "**PB Transbay Memo**"

Comment Letter O009 - Continued

Kris Livingston

From: Elizabeth Goldstein Alexis [ealexis@gmail.com]
Sent: Tuesday, April 27, 2010 12:00 AM
To: HSR Comments
Subject: Bay Area to Central Valley Revised Draft Program EIR Material Comments
Attachments: Headways Pacheco and Altamont Peak and Offpeak EGA v2.1.xls

Please note: this should accompany the earlier CARRD comments on ridership.

1

		SF TBT	Millbrae	RWC	SJ	Gilroy		
	headway	1	2	3	4	5	6	7
SF TBT	1	0	11.12	11.12	6.29	11.12	0	0
Millbrae	2	11.12	0	11.12	11.12	11.12	0	0
RWC	3	11.12	11.12	0	11.12	11.12	0	0
SJ	4	6.29	11.12	11.12	0	11.12	0	0
Gilroy	5	11.12	11.12	11.12	11.12	0	0	0
	6	0	0	0	0	0	0	0
	7	0	0	0	0	0	0	0
	8	0	0	0	0	0	0	0
	9	0	0	0	0	0	0	0
Sacramenti	10	23.69	46.92	46.92	23.69	46.92	0	0
Stockton	11	46.92	46.92	46.92	46.92	46.92	0	0
Tracy	12	0	0	0	0	0	0	0
Modesto	13	0	0	0	0	0	0	0
Merced	14	46.92	46.92	46.92	46.92	46.92	0	0
Fresno	15	17.4	29.32	29.32	17.4	29.32	0	0
Bakersfield	16	17.37	28.73	28.73	17.37	28.73	0	0
Palmdale	17	16.67	16.67	16.67	16.67	16.67	0	0
Sylmar	18	16.67	16.67	16.67	16.67	16.67	0	0
Burbank	19	16.67	16.67	16.67	16.67	16.67	0	0
LA Union S	20	9.23	16.67	16.67	9.23	16.67	0	0
Norwalk	21	297.31	297.31	297.31	297.31	297.31	0	0
Anaheim	22	37.85	230.93	230.93	37.85	230.93	0	0
Irvine	23	37.85	230.93	230.93	37.85	230.93	0	0
East Gabrie	24	0	0	0	0	0	0	0
Ontario	25	15.75	18.91	18.91	15.75	18.91	0	0
Riverside	26	15.75	18.91	18.91	15.75	18.91	0	0
Temecula	27	15.75	18.91	18.91	15.75	18.91	0	0
Escondiddc	28	15.75	18.91	18.91	15.75	18.91	0	0
U City	29	15.75	18.91	18.91	15.75	18.91	0	0
San Diego	30	12.22	18.91	18.91	12.22	18.91	0	0
Visalia	31	0	0	0	0	0	0	0
	32	0	0	0	0	0	0	0
Los Banos	33	0	0	0	0	0	0	0
Livermore	34	0	0	0	0	0	0	0
Bernel	35	0	0	0	0	0	0	0
Shinn	36	0	0	0	0	0	0	0
Morgan Hil	37	11.12	11.12	11.12	11.12	11.12	0	0
City of Indu	38	15.75	18.91	18.91	15.75	18.91	0	0
Warm Sprii	39	0	0	0	0	0	0	0
Modesto	40	46.92	46.92	46.92	46.92	46.92	0	0
	41	0	0	0	0	0	0	0
	42	0	0	0	0	0	0	0
Palo Alto	43	0	0	0	0	0	0	0
Tracy ACE	44	0	0	0	0	0	0	0

Comment Letter O009 - Continued

Livermore	45	0	0	0	0	0	0	0
	46	0	0	0	0	0	0	0
	47	0	0	0	0	0	0	0
	48	0	0	0	0	0	0	0

		Sacramento	Stockton	Tracy	Modesto	Merced	Fresno	Bakersfield
8	9	10	11	12	13	14	15	16
0	0	23.69	46.92	0	0	46.92	17.4	17.37
0	0	46.92	46.92	0	0	46.92	29.32	28.73
0	0	46.92	46.92	0	0	46.92	29.32	28.73
0	0	23.69	46.92	0	0	46.92	17.4	17.37
0	0	46.92	46.92	0	0	46.92	29.32	28.73
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	15.32	0	0	33.52	32.09	29.99
0	0	15.32	0	0	0	33.52	32.09	29.99
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	33.52	33.52	0	0	0	117.32	117.32
0	0	32.09	32.09	0	0	117.32	0	12.42
0	0	29.99	29.99	0	0	117.32	12.42	0
0	0	39.1	39.1	0	0	117.32	26.06	18.17
0	0	39.1	39.1	0	0	117.32	26.06	18.17
0	0	39.1	39.1	0	0	117.32	26.06	18.17
0	0	17.34	22.74	0	0	117.32	12.42	10.32
0	0	297.31	297.31	0	0	297.31	297.31	297.31
0	0	62.18	129.68	0	0	117.32	64.09	55.36
0	0	62.18	129.68	0	0	117.32	64.09	55.36
0	0	0	0	0	0	0	0	0
0	0	34.21	39.1	0	0	117.32	24.42	17.63
0	0	34.21	39.1	0	0	117.32	24.42	17.63
0	0	34.21	39.1	0	0	117.32	24.42	17.63
0	0	34.21	39.1	0	0	117.32	24.42	17.63
0	0	34.21	39.1	0	0	117.32	24.42	17.63
0	0	24.22	27.69	0	0	117.32	16.05	12.8
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	46.92	46.92	0	0	46.92	29.32	28.73
0	0	34.21	39.1	0	0	117.32	24.42	17.63
0	0	0	0	0	0	0	0	0
0	0	20.73	20.73	0	0	33.52	37.19	37.19
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0

Comment Letter O009 - Continued

0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0

Palmdale	Sylmar	Burbank	LA Union S	Norwalk	Anaheim	Irvine	East Gabrie	Ontario
17	18	19	20	21	22	23	24	25
16.67	16.67	16.67	9.23	297.31	37.85	37.85	0	15.75
16.67	16.67	16.67	16.67	297.31	230.93	230.93	0	18.91
16.67	16.67	16.67	16.67	297.31	230.93	230.93	0	18.91
16.67	16.67	16.67	9.23	297.31	37.85	37.85	0	15.75
16.67	16.67	16.67	16.67	297.31	230.93	230.93	0	18.91
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
39.1	39.1	39.1	17.34	297.31	62.18	62.18	0	34.21
39.1	39.1	39.1	22.74	297.31	129.68	129.68	0	39.1
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
117.32	117.32	117.32	117.32	297.31	117.32	117.32	0	117.32
26.06	26.06	26.06	12.42	297.31	64.09	64.09	0	24.42
18.17	18.17	18.17	10.32	297.31	55.36	55.36	0	17.63
0	10.96	10.96	10.96	238.66	215.51	215.51	0	12.22
10.96	0	10.96	10.96	238.66	215.51	215.51	0	12.22
10.96	10.96	0	10.96	238.66	215.51	215.51	0	12.22
10.96	10.96	10.96	0	238.66	23.53	23.53	0	10.09
238.66	238.66	238.66	238.66	0	238.66	238.66	0	238.66
215.51	215.51	215.51	23.53	238.66	0	23.53	0	23.53
215.51	215.51	215.51	23.53	238.66	23.53	0	0	23.53
0	0	0	0	0	0	0	0	0
12.22	12.22	12.22	10.09	238.66	23.53	23.53	0	0
12.22	12.22	12.22	10.09	238.66	23.53	23.53	0	10.09
12.22	12.22	12.22	10.09	238.66	23.53	23.53	0	10.09
12.22	12.22	12.22	10.09	238.66	23.53	23.53	0	10.09
12.22	12.22	12.22	10.09	238.66	23.53	23.53	0	10.09
12.22	12.22	12.22	7.69	238.66	23.53	23.53	0	10.09
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
16.67	16.67	16.67	16.67	297.31	230.93	230.93	0	18.91
12.22	12.22	12.22	10.09	238.66	23.53	23.53	0	10.09
0	0	0	0	0	0	0	0	0
117.32	117.32	117.32	37.19	238.66	238.66	238.66	0	97.76
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Comment Letter O009 - Continued

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Riverside	Temecula	Escondiddc	U City	San Diego	Visalia		Los Banos	Livermore
26	27	28	29	30	31	32	33	34
15.75	15.75	15.75	15.75	12.22	0	0	0	0
18.91	18.91	18.91	18.91	18.91	0	0	0	0
18.91	18.91	18.91	18.91	18.91	0	0	0	0
15.75	15.75	15.75	15.75	12.22	0	0	0	0
18.91	18.91	18.91	18.91	18.91	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
34.21	34.21	34.21	34.21	24.22	0	0	0	0
39.1	39.1	39.1	39.1	27.69	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
117.32	117.32	117.32	117.32	117.32	0	0	0	0
24.42	24.42	24.42	24.42	16.05	0	0	0	0
17.63	17.63	17.63	17.63	12.8	0	0	0	0
12.22	12.22	12.22	12.22	12.22	0	0	0	0
12.22	12.22	12.22	12.22	12.22	0	0	0	0
12.22	12.22	12.22	12.22	12.22	0	0	0	0
10.09	10.09	10.09	10.09	7.69	0	0	0	0
238.66	238.66	238.66	238.66	238.66	0	0	0	0
23.53	23.53	23.53	23.53	23.53	0	0	0	0
23.53	23.53	23.53	23.53	23.53	0	0	0	0
0	0	0	0	0	0	0	0	0
10.09	10.09	10.09	10.09	10.09	0	0	0	0
0	10.09	10.09	10.09	10.09	0	0	0	0
10.09	0	10.09	10.09	10.09	0	0	0	0
10.09	10.09	0	10.09	10.09	0	0	0	0
10.09	10.09	10.09	0	10.09	0	0	0	0
10.09	10.09	10.09	10.09	0	0	0	0	0
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0	0	0	0	0	0	0	0	0
18.91	18.91	18.91	18.91	18.91	0	0	0	0
10.09	10.09	10.09	10.09	10.09	0	0	0	0
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97.76	97.76	97.76	97.76	48.88	0	0	0	0
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Comment Letter O009 - Continued

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0	0	0	0	0	0	0	0	0
0	0	46.92	34.21	0	20.73	0	0	0
0	0	46.92	39.1	0	20.73	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	46.92	117.32	0	33.52	0	0	0
0	0	29.32	24.42	0	37.19	0	0	0
0	0	28.73	17.63	0	37.19	0	0	0
0	0	16.67	12.22	0	117.32	0	0	0
0	0	16.67	12.22	0	117.32	0	0	0
0	0	16.67	12.22	0	117.32	0	0	0
0	0	16.67	10.09	0	37.19	0	0	0
0	0	297.31	238.66	0	238.66	0	0	0
0	0	230.93	23.53	0	238.66	0	0	0
0	0	230.93	23.53	0	238.66	0	0	0
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0	0	18.91	10.09	0	97.76	0	0	0
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0	0	18.91	10.09	0	97.76	0	0	0
0	0	18.91	10.09	0	97.76	0	0	0
0	0	18.91	10.09	0	48.88	0	0	0
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Comment Letter O009 - Continued

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Comment Letter O009 - Continued

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Response to Letter O009 (Elizabeth Goldstein Alexis, CARRD, April 26, 2010)

O009-1

Ridership modeling was not an area identified by the Superior Court for further corrective work under CEQA in the Town of Atherton case. We note that in 2008, the Authority concluded that ridership for both Altamont Pass and Pacheco Pass network alternatives was high, and that ridership was not a factor that distinguished between alternatives.

The commenter misstates the goals of the High-Speed Rail Ridership and Revenue Study. As stated in the Request for Proposals (RFP) from the Metropolitan Transportation Commission, the project goals were as follows[1]:

> *The purpose of this study is to develop a travel modeling system for examining high-speed rail alternatives in California, in particular, high-speed rail connections from the San Joaquin Valley to the San Francisco Bay Area. The model system will be used to prepare ridership and revenue forecasts, and evaluation measures including user benefits, travel time and travel cost savings for new riders, and impacts on other modes (air, roadway). The travel forecasts prepared for this study are intended for use in further detailed environmental analysis work to be conducted by the California High-Speed Rail Authority.*
>
> *The model system is intended as a network-based modeling system, using commercially available modeling software in use at MTC, the State Department of Transportation, and other metropolitan planning organizations in California. This will provide public agencies the flexibility of analyzing other high-speed rail and inter-city transit options in the future. For example, the structure of the model system will allow MTC to examine commuter rail options in the Sacramento-San Jose Capitol Corridor.*

Contrary to the commenter's statement, the goals were not to "start with a given set of alternatives and then use the results to improve the alternatives…" Such a statement is neither included, nor implied, in the RFP.

The 2008 Final Program EIR provided information showing different ridership forecasts for different network alternatives in Chapter 7. The ridership forecasts in the EIR identified different levels of ridership for the network alternatives depending on the number of stations served and whether the network alternative involved a split to serve San Francisco, San Jose, and Oakland. We acknowledge that a split in service influences total ridership for a network alternative that involves a split. We also acknowledge that frequency of service influences total ridership. We do not agree, however, that the combination of a service split and frequency results in a penalty for the Altamont Pass base case alternative amounting to 20 million trips. As explained in the 2008 Final Program EIR responses to comments: "Due to the HST service split, the Altamont Pass base alternative has 33 trains per day from Los Angeles to San Francisco and 17 trains per day from Los Angeles to San Jose (for the same total of 50 trains between Los Angeles and the Bay Area [as the Pacheco Pass base alternative]. This allocation of trains to the two destinations means that everyone traveling to these destinations has lower frequency of trains in the base Altamont network alternative (San Francisco and San Jose) compared to the base Pacheco network alternative (San Francisco and San Jose). This lower frequency contributed to about 6 million fewer annual systemwide passengers in the Altamont Pass base alternative compared to the Pacheco Pass base alternative." (2008 Final Program EIR, p. 23-63.)

O009-2

The commenter incorrectly states that "the cost of lower train frequencies … is much greater than differences in travel times…"

[1] Request for Proposals to the Metropolitan Transportation Commission for Bay Area / California High-Speed Rail Ridership and Revenue Forecasting Study; Metropolitan Transportation Commission; November 12, 2004; p. 8.

Actually, the ridership and revenue model weights frequency (or headway) equal to in-vehicle travel time.

The commenter appears to incorrectly interpret the meaning of "equilibration process" in this context. It appears that the commenter is suggesting that an equilibration process is (or should be) used to create or adjust alternatives solely on the basis of travel demand model results, apparently for the purpose of maximizing the ridership potential of each alternative. Such an adjustment process is inconsistent with standard professional practice, and would produce biased results if applied in an alternatives analysis or EIR/EIS.

Instead, an equilibration process is used to establish the basic assumptions for each of the modes in the travel demand model. The equilibration process is applied to an entire mode, such as HST or air, not for each of the alternatives within a mode. In the case of HST, the equilibration adjusted overall HST service levels in order to reach a reasonable match between projected ridership and available capacity on a systemwide basis. While seeking to match demand and capacity, the equilibration process also considered operational feasibility, service levels on competing modes, and fare and other assumptions. The equilibration process specifically resulted in adjustments to peak and off-peak service levels, express versus local services, the split of service among the major termini (Bay Area, Sacramento, Los Angeles, San Diego, and Anaheim), and service levels at other major stations. Once these basic parameters were established, a second equilibration process was run to determine the most reasonable split of service among Bay Area termini (San Francisco, Oakland and San Jose) for alternatives that included such service split. Once these equilibration processes were completed, the assumptions were used consistently for all alternatives in the Program EIR/EIS.

The commenter makes many incorrect statements leading up to their advocacy for inclusion of a "station selection model". For example, the commenter claims that "the model assumes someone who lives in Los Angeles who is one minute closer to the Norwalk station than Los Angeles Union Station will ONLY travel from the Norwalk station, even through LAUS offers significantly more frequent service." This statement is false. The ridership and revenue model determines the most appropriate airport and station for each zone-to-zone pair based on consideration of household characteristics, trip starting and ending points, and access time and costs to available airport and station options, and the amount of air or rail service available at these airports and stations. In short, the ridership and revenue model does indeed have a "station selection" process.

In light of the numerous representative network alternatives in the Program EIR, we do not believe it is necessary to examine an alternative that would cross the Altamont Pass, travel south to San Jose, then up the entirety of the San Francisco Peninsula to reach San Francisco. This is a variation on the Altamont Pass representative network alternative 7.2-9, which would serve San Jose and San Francisco on a single line, while also serving Oakland. It is unlikely that a single alignment alternative serving both San Jose and San Francisco via Altamont would generate anywhere close to the 20 million additional riders claimed by the commenter. The reason for this conclusion is that HST travel times to Redwood City, Millbrae and San Francisco would be at least 15 minutes longer traveling via San Jose compared to the Altamont Base alternative that crosses San Francisco Bay in the Dumbarton Corridor. Essentially, the benefit gained from more frequent service to each Bay Area station would be largely offset by the longer travel times to Redwood City, Millbrae and San Francisco.

O009-3

The comment correctly identifies that the conceptual operations plan described in the 2008 Final Program EIR and utilized as part of creating the Final Program EIR ridership forecasts has evolved based on ongoing planning work that has occurred subsequent to the Authority's July 2008 program decision. The 2008 Final Program EIR describes that the conceptual operating plan used for EIR purposes involved a total of 124-139 weekday trains in each direction to serve the statewide HST travel market as forecast for low and high-end forecasts. This conceptual operating plan was used consistently across all network alternatives analyzed in the Program EIR. The increase in off-peak train service in subsequent operational plans does lower headways/increase frequency in the off-peak period.

Further, the commenter's statement that "headways were a significant differentiator between the Altamont and Pacheco routes" is not correct. In fact, during the course of preparing the Program EIR/EIS, many alternatives were tested that involved different configurations of train splitting for both Altamont and Pacheco. Ridership results from these tests were included in the Program EIR/EIS, and clearly showed that both Altamont and Pacheco would exhibit similar patterns of ridership changes as headways to each terminal changed as a result of service splits.

We do not agree, however, that this adjustment in the current operational plan would have "dramatically lowered the train-splitting penalty" if it had been used for the Program EIR. While different assumptions about frequency might yield somewhat different forecasts, the differences would not change the conclusion that ridership for the Altamont Pass and the Pacheco Pass alternatives is high and that ridership does not distinguish between alternatives. We note in addition that the purpose of the Bay Area/California High-Speed Rail Ridership and Revenue Forecasting Study was to develop forecasts for use in environmental analysis. We do not agree that this effort was intended to develop an optimized operating plan.

O009-4

The comment requests that the ridership model be re-run to reflect the potential for two stations in San Francisco. The 2008 Final Program EIR and the March 2010 Revised Draft Program EIR identify the potential need for additional capacity for high-speed trains beyond what can be accommodated at the Transbay Transit Center facility. The project-level examination of the use of two San Francisco stations does not result in the need to re-run the ridership model used in the 2008 Final Program EIR for the programmatic analysis or decision. The 2-station arrangement in San Francisco may result in somewhat different ridership results for the Pacheco Pass and Altamont Pass base cases, however it would not change the conclusion that ridership levels for both Altamont and Pacheco network alternatives are high and that ridership does not distinguish between the alternatives.

O009-5

The ridership forecasts used in the 2008 Final Program EIR are based on the full system constructed as of 2030, with a low end annual forecast of 89 million to depict environmental benefits and a high end annual forecast of 117 million to depict environmental impacts. Forecasts limited to Phase 1 of the system are not necessary for the programmatic environmental analysis, which is intended to capture the breadth of environmental impacts from build-out of the HST system as a whole.

O009-6

Comment noted. The information and analysis in the 2008 Final Program EIR is sufficient for identifying station-area traffic effects. Traffic impact analysis in general was not an area identified by the Superior Court in the Town of Atherton case for further work to comply with CEQA. The Authority will consider this comment as part of project-level environmental processes.

O009-7

The commenter correctly notes that the stated preference surveys included "roundtrip fuel cost" as one of the many variables presented in the choice exercises. While the commenter notes that auto operating costs rather than fuel costs were used in the forecasts, such usage is not inappropriate for several reasons:

- Auto operating costs rather than fuel costs were consistently used throughout model estimation, calibration, validation and application .
- The same auto operating costs were used consistently to forecast ridership and revenue for all alternatives in the Program EIR.
- The change from fuel costs to auto operating costs was done at an early stage of model development, and was discussed with peer review and the client project manager .
- A broad range of fuel costs were tested in the choice experiments within the stated preference survey, including high fuel costs that are consistent with the per-mile auto operating

costs that were actually used for model estimation through application.

- There is no standard within the travel modeling profession as to the use of fuel costs or auto operating costs; usage of either variable is acceptable as long as it is done consistently from model estimation through application.

O009-8

The commenter correctly notes that the "study design specifically stated that both revealed preference and stated preference data would be used" for estimating the main mode choice model. Both types of data were, in fact, used in the data records for model estimation. The study design was followed, with stated preference (SP) data and select, relevant revealed preference (RP) data both being drawn from the same records in new surveys conducted for the Ridership and Revenue Forecasting Study. Separate RP and SP records were not used, nor were they intended to be used, in the mode choice model estimation dataset.

The commenter's statement that "stated preference data has known issues that bias estimation results" is misleading and irrelevant since the estimated model is not directly used to forecast ridership. See Standard Response #4 for further discussion of the widely-employed model calibration and validation procedures that were used for the HSR ridership and revenue model.

O009-9

Please see Standard Response 4 related to survey sample.

O009-10

Please see Standard Response 4 related to the frequency (headway) coefficient.

Comment Letter O010 (Rita Wespi, CARRD, April 26, 2010)

O010

Kris Livingston

From: Rita Wespi [rwespi@mathmatinee.com]
Sent: Monday, April 26, 2010 3:14 PM
To: HSR Comments
Cc: 'Nadia Naik'; 'Sarah Armstrong'; 'Elizabeth Alexis'
Subject: Bay Area to Central Valley Revised Draft Program EIR Material Comments

Please accept CARRD's comments on the Bay Area to Central Valley Revised Draft Program EIR – we will be sending them to you via email before midnight tonight.

Thank you,

Rita Wespi
Co-founder
CARRD - Californians Advocating Responsible Rail Design
Phone: 650-269-1781
Email: rwespi@carrdnet.org
Web: www.calhsr.com

CA RR D Californians Advocating Responsible Rail Design

1

Kris Livingston

From: Rita Wespi [rwespi@mathmatinee.com]
Sent: Tuesday, April 27, 2010 12:01 AM
To: HSR Comments
Cc: 'Nadia Naik'; saranruth@gmail.com; 'Elizabeth Alexis'; steve.emslie@cityofpaloalto.org
Subject: Bay Area to Central Valley Revised Draft Program EIR Material Comments
Attachments: Cover Letter BA to CV Program DEIR .pdf; CARRD comments on DEIR.pdf

Dear Mr. Leavitt,

Attached please find our comments related to the Bay Area to Central Valley Draft Program EIR.

Sincerely,

CARRD - Californians Advocating Responsible Rail Design
Phone: 650-269-1781
Email: info@carrdnet.org
Web: www.calhsr.com

CA RR D Californians Advocating Responsible Rail Design

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Comment Letter O010 - Continued

CARRD Californians Advocating Responsible Rail Design

1825 Emerson Street
Palo Alto, CA 94301
www.calhsr.com
info@carrdnet.org

April 26, 2010

California High-Speed Rail Authority
Attention: Dan Leavitt
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Bay Area to Central Valley Revised Draft Program EIR Material Comments

Dear Mr. Leavitt,

Attached please find our comments related to the Bay Area to Central Valley Draft Program EIR. We understand that the Authority has asked the public to limit the comments only to the revised material, however, under CEQA, we have the right to comment on the entire document since the entire document was de-certified. We ask that you fully review and address issues related to the entire document in order to avoid lawsuits that would delay the project any further. O010-1

Sincerely,

Elizabeth Alexis
Co-Founder

Rita Wespi
Co-Founder

Sara Armstrong
Co-Founder

Nadia Naik
Co-Founder

cc: Steve Emslie, City of Palo Alto

Comment 1: Missing Definition of "Property Impacts"

The EIR does not include the working definition of Property Impacts. It is unclear if this is meant to indicate only those properties that will be acquired through eminent domain, or if the analysis includes potential decrease in property values of properties not taken but adversely impacted, for example, impacts on value of property within reach of sound, vibration, visual, access, impacts; or impacts of those categories on the inhabitants of the properties. O010-2

Suggested fix: Readdress the 'Property Impacts' section, including a full definition of the scope of the properties included and the ratings used, with more precision and accuracy. Include a description of the anticipated radius of impacts.

Comment 2: Impact band measures inconsistent

The summarized potential property impact states a measured distance that is inconsistent with (and smaller than) the distances of potential impacts presented in individual impact sections.

To determine potential property impacts, the land uses within 50 ft of either side of the existing corridor or within 50 ft of both sides of the centerline for new HST alignments were characterized by type and density of development.
The summary impact statement should indicate the widest band among the specific impact area bands inasmuch as property values can potentially be impacted by any single individual measurement as well as cumulative effects. As such, it is reasonable to conclude that impacts might affect properties beyond 50 ft, as demonstrated the wider bands provided by various individual sections. For example, vibration impacts are described on page 3.4-5 of Volume 2 Appendix 3 thus:
"Where speeds are expected to be low, the vibration potential impacts are confined to within 100 ft (30 m) of the track. At top speeds, the potential impacts extend to 200 ft (61 m)."
For noise, the impact area is described on page 3.4-8 indicates that the study area is within 1000 feet of the centerline of the alignments. O010-3

Suggested fix: increase the summarized *potential* property impact to the maximum band and update the analysis to reflect this more inclusive measure.

Noise and Vibration

Comment 3: Specify Decibel Levels

The section on Noise impacts does not include actual noise levels expected at the various speeds for the High Speed trains. Suggestion: include a graph of the anticipated noise levels by speed and use those levels in the subsequent analysis and ratings. For example, decibel levels for 125 mph and 220 mph have O010-4

Comment Letter O010 - Continued

been established. Noise analysis should be based on those established numbers.

O010-4 cont.

Comment 4: Incorporate WHO Standards into Analysis

The World Health Organization established standards for maximum acceptable noise levels, which the following table summarizes:

Specific environment	Critical health effect(s)	LAeq [dB]	Time base [hours]	LAmax, fast [dB]
Outdoor living area	Serious annoyance, daytime and evening Moderate annoyance, daytime and evening	55 50	16 16	–
Dwelling, indoors Inside bedrooms	Speech intelligibility and moderate annoyance, daytime and evening Sleep disturbance, night-time	35 30	16 8	45
Outside bedrooms	Sleep disturbance, window open (outdoor values)	45	8	60
School class rooms and pre-schools, indoors	Speech intelligibility, disturbance of information extraction, message communication	35	during class	-
Pre-school Bedrooms, indoors	Sleep disturbance	30	sleeping-time	45
School, playground outdoor	Annoyance (external source)	55	during play	-
Hospital, ward rooms, indoors	Sleep disturbance, night-time Sleep disturbance, daytime and evenings	30	8 16	40 -
Hospitals, treatment rooms, indoors	Interference with rest and recovery[a]			
Industrial, commercial, shopping and traffic areas, indoors and Outdoors	Hearing impairment	70	24	110
Ceremonies, festivals and entertainment events	Hearing impairment (patrons:<5 times/year)	100	4	110
Public addresses, indoors and outdoors	Hearing impairment	85	1	110
Music through headphones/Earphones	Hearing impairment (free-field value)	85[d]	1	110
Impulse sounds from toys, fireworks and firearms	Hearing impairment (adults) Hearing impairment (children)	- -	- -	140[b] 120[b]
Outdoors in parkland and conservation areas	Disruption of tranquility [c]			

O010-5

O010-5 cont.

Comment 5: Climate impacts on Noise propagation

The analysis of noise impacts should include assessment of the climatic differences along the various routes and how such differences (wind, weather, elevation, etc) affect noise propagation. Please elaborate on these issues.

O010-6

Comment 6: Correct ratings related to noise impacts

Page 3.4-13, "Although the HST service in the San Francisco to San Jose (Caltrain) corridor would be going through densely populated communities, the

O010-7

Comment Letter O010 - Continued

alignment alternatives in this corridor were rated as having a medium level of potential noise impacts because the HST would be traveling at reduced speeds and the communities would benefit from grade separation improvements for existing services and electrification of the railroad." According to the algorithms given on the previous pages and the tables in the Appendix, this rating is incorrect. With the exception of the areas surrounding the San Francisco and Santa Clara stations, all ratings for sound should be 'High' from SF to SJ, and all ratings for vibration should be 'High' as well.

O010-7 cont.

Comment 7: Update speeds to current projected values

Page 3.4-19: "The San Jose to Central Valley corridor is rated as having medium potential for noise impacts. Although the HST system could reach speeds as great as 186 mph (299 kph) through this area," What are the noise impacts now that the Technical Team has announced speeds of 220 mph through Morgan Hill and Gilroy? The announcements were made here: http://www.cahighspeedrail.ca.gov/images/chsr/20090810133659_BoardPrezAug09vprint.pdf page 13 and in a presentation to Gilroy City Council meeting by Authority consultants on February 1, 2010.

O010-8

Comment 8: Noise impact reductions not quantified

The program level EIR reduced the severity of the potential noise impacts from the assessed values because it factored in the reduction of noise pollution from grade separations. However, this categorical reduction of noise level impacts severity is inappropriate for areas that are not within the impact radius of currently non-grade separated crossings.

O010-9

Comment 9: Specify efficacy of sound wall technology

How many dBs can existing sound wall technology mitigate? Please address in the final EIR the noise levels that are anticipated between SJ and SF and between SJ and Fresno – these were published here: http://www.cahighspeedrail.ca.gov/images/chsr/20100120152808_FresnoPIMMeetingBoardsvol2.pdf page 7

Clearly describe (using a table if necessary) the current levels, the anticipated levels at-grade or elevated, and the mitigated levels at-grade or elevated. These are necessary in the Program Level EIR - not to be deferred to the Project Level - if one is to understand and evaluate the noise impacts on the proposed routes.

What are the noise impacts of sound walls and other vertical structures on existing streets which run adjacent to the tracks? Specifically, study the noise impacts on all places where this scenario would happen on the ROW. Will the new structure increase traffic noise by creating a 'bounce' effect?

O010-10

Comment 10: Effects of alignment changes on inclines on noise and vibration

Introducing grade separations on aerials introduces inclines. What are the impacts on noise and vibration when diesel freight engines climb these newly introduced hills? Freight trains will operate at night; how will the increase in vibrations or noise affect the surrounding areas, and what is the land use compatibility, particularly in residential neighborhoods?

O010-11

Comment 11: Land Use and Planning, Communities and Neighborhoods, Property, and Environmental Justice

Appendix 3.7-A, Land Use and Planning Data concludes that Land Use Compatibility is "High", Community Cohesion Impacts are "No", and Potential for Property Impacts is "Low". On page 3.7-3 it states that "single-family residential" homes are "Low" compatibility, so how did it increase to "High" compatibility in the final report: http://www.cahighspeedrail.ca.gov/images/chsr/20080324175004_Appendix_3-7-A_DataTable.pdf.?

On page 3.7-5 of the Land Use link above the report describes "CRITERIA FOR DETERMINING CEQA SIGNIFICANCE". The first criterion is the potential for the project to physically divide an established community or be incompatible with adjacent land uses. EVERY ONE of the 200+ segments studied along the Caltrain corridor was rated as "NO" impact on Community Cohesion. The definition starts out as: "A potential impact on a community or neighborhood was identified if an alignment alternative would create a new physical barrier…" There are sections where 75-100' thick, 15' tall retained embankments are proposed, yet they are not identified as physical barriers. How was a "NO" impact determination made and explain the reasoning.

O010-12

Comment 12: Land use compatibility

The supporting documents for determining compatible land use are out-of-date; some are dated as early as 1990. These are the cities' General Plans. For example, the 2010 Program EIR cites San Jose's 1994 Plan. According to the City's website, the original plan was posted in 1994; it has been updated yearly through 2008. http://www.sanjoseca.gov/planning/gp/gptext.asp. In 2009 San Jose began work on their "Envision San Jose 2040" plan. This indicates that 1) the 2010 Program EIR which affects neighborhoods in San Jose is based on obsolete data; and 2) the 2008 Program EIR was based on obsolete data. (2008 Bay Area Program EIR, Pages 14-8, 14-9).

Palo Alto's Comprehensive Plan was updated in 2007; the EIR cites a 1998 version. The Plan states as one of its major themes, "The community treasures

O010-13

Comment Letter O010 - Continued

the special qualities of the City, including its historic buildings, pedestrian scale, high-quality architecture, and beautiful streets and parks. Maintaining the physical qualities of the City is an overarching consideration, incorporated in all parts of the Plan. The Land Use and Community Design Element includes specific provisions to maintain Palo Alto's best features and enhance and improve those areas where these features are lacking." This is not compatible or "Low." Under these assertions, the rebuilding of the San Francisco freeway would have been considered "High" compatibility with no impact to community cohesiveness. (http://articles.sfgate.com/2009-10-11/opinion/17183391_1_projects-downtown-neighborhood)

O010-13 cont.

The subheader, Communities and Neighborhoods, does not give an adequate description of potential impacts. Only one example is given. The introduction of elevated structures, catenaries and possible sound walls directly abutting a single-family home could reasonably be considered to have 'potential impact', for example. All potential impacts must be fully discussed. Under the current criteria being used, a country lane could be converted to a grade-separated highway and the impact would be rated as "low."

O010-14

Comment 13: Aesthetics and Visual Resources

Visual impact of raised berm is rated 'low' however it should be rated 'high" given the Visual Impact metrics. See: http://www.cahighspeedrail.ca.gov/images/chsr/20080324175050_Appendix_3-9-A_DataTable.pdf Appendix 3.9-A, pg 1.

The Visual Impact data in Table 3.9.1 is incorrect. The EIR defines "High visual impacts" as those where features of the alignment were obvious and began to dominate the landscape and detract from the existing landscape characteristics or scenic qualities. "Medium visual impacts" are features, which are readily discernable but did not dominate the landscape or detract from existing dominant features.

All HSR features along the Caltrain corridor were rated as "Low" with the exception of the pedestrian overpasses at the Palo Alto and Diridon stations. This violates HSRA's own Visual Impact definitions. "Under CEQA, a project would have a significant impact if it would . . . (c) substantially degrade the existing visual character or quality of the site and its surroundings." ". . . a rating of high or medium can generally be considered as significant."

Visual resources are important in each community and each city's visual resources should be inventoried by the Authority. The descriptions and tables do not reflect an accurate count of these resources. Without an accurate count, it is difficult to place a rating on the impacts. Please list the inventory of these resources so that stakeholders may verify that their interests are recorded. These views will be compromised or obstructed with the introduction of tall aerial structures. In order to measure visual impact, the Authority must categorize these visual resources and evaluate their obstruction or possible obstruction in their report. For example, the Stanford hills, Hoover Tower, the Dish, and the foothills are all visual resources which can be seen and enjoyed from the east side of the proposed corridor. Elevated structures and catenaries are likely to impact the view to those visual resources.

O010-15

According to the Caltrain Draft EIR http://www.caltrain.com/pdf/Electrification/Chapter_3.pdf page 3-2, "The historic Atherton depot reflects the high visual quality of the surrounding residential area." Atherton was selected as representative of that section of the Caltrain corridor; the HSRA EIR should include this information as well as the visual qualities of ALL of the cities on the corridor.

According to the Caltrain Draft EIR http://www.caltrain.com/pdf/Electrification/Chapter_3.pdf page 3-3,"The Morgan Hill area is representative of the rural context of the southern portion of the railroad corridor. Existing residential areas currently have high quality views looking eastward across fields and the railroad right-of-way to the mountains beyond." HSRA should include this description in the EIR as well as the identification of other cities, such as Gilroy, that have rural context.

Regarding the OCS poles and wires http://www.caltrain.com/pdf/Electrification/Chapter_3.pdf, "Residents or business occupants, however, may consider these visual effects adverse. The new OCS infrastructure would be more or less visible from corridor residences and businesses, depending on the visual screening between the rail corridor and adjacent land uses, and on the profile of the rail corridor relative to these other land uses." This information must be captured in the HSRA EIR as it is pertinent.

O010-15 cont.

The City of Palo Alto and residents paid for underground wiring in the mid 1990s along Mariposa Ave. It's part of an expensive city-wide project to invest in improving aesthetics, among other objectives. OCS poles and wires will be more obtrusive than what was removed. The visual impact along this section of Palo Alto should therefore be considered High. The City has plans to eventually complete its underground wiring project for the entire city - implying that the existing poles and wires are an eyesore throughout the city - the visual impact of OCS poles and wires should be rated 'high' for the entire length of Palo Alto.

Caltrain EIR suggests that the visual impact for OCS poles and wires is greater where there are fewer trees to shield the view. The HSRA EIR should reflect this information. For example, the stretch of corridor between California Ave station in Palo Alto and San Antonio Road fall into this category, and should therefore be

Comment Letter O010 - Continued

rated as High impact. Other streets and cities along the ROW must be studied and the amount of tree coverage should be cataloged and mitigated appropriately.

Will there be new pedestrian bridges at the Caltrain stations or anywhere else along the ROW? If so, presumably they will have overbridge protection barriers. These introduce another form of visual blight that's incompatible with the surrounding. They should be rated as High impact.

What new sources of light will be introduced as a result of the overall project? What will be the various affects of this light and how will it be mitigated? For example, if a new pedestrian bridge is built and it requires light, what is the impact after 5 pm in the winter on homes adjacent to the ROW near the pedestrian bridge that will no longer have tree coverage? What is the effect of light emitting from the train windows on elevated structures? Cumulatively, with the removal of trees, passing trains will light up residential homes in the evening; in particular this might adversely affect 2nd story bedrooms facing the corridor.

Explain the types and heights of noise barriers for grade level, aerial and elevated structures. What visual impacts will these have and, if so, how can they be mitigated? What will be the effects on light planes and can those effects be mitigated? Will they cause shadows to plants in the area? Will they cause shade on homes?

O010-15 cont.

The EIR does NOT describe a typical HSR fences for typical alignments, for example at-grade, on a berm or elevated structure, or with a trench. In order to adequately address the impacts these fences will have, they must be identified and described. These are not project-specific since the number of ways a high-speed rail track can be built is limited to just a few options which will be repeated across the state. Address the visual impacts of the typical fence structures on, for example, residential and multi-family neighborhoods.

Comment 15: Hazardous Materials and Wastes

Caltrain's Final EIR for Electrification has 189 hazardous sites listed in the summary. "A total of 189 known or potential hazardous waste sites were identified within 0.25-mile of the proposed traction power facility locations." These sites should be reviewed and listed in the EIR if they are within distance that they could be affected during construction or operation of the ROW.

O010-16

Comment 16: Cumulative Analysis

"Cumulative Impacts" is an important CEQA consideration. The cumulative impacts of constructing two routes into the Bay Area (Pacheco Pass for HSTs and Altamont Pass for local service) have not been adequately addressed. Given the decision by the High Speed Rail Authority to move forward with planning for an Altamont commuter service, the cumulative impacts of that project should be analyzed alongside this project. This particularly important as the **U.S. Environmental Protection Agency's Concurrence on the Least Environmentally Damaging Practicable Alternative** (LEDPA) stated that it was unlikely that the LEDPA would be one that included construction across both the Pacheco and Altamont passes.

O010-17

The cumulative impacts of both past and proposed major construction projects along the proposed route must be inventoried. This inventory should include things such as the possible electrification of Caltrain's electrification PRIOR to the commencement of HSR construction, and other improvement projects such as California Ave pedestrian underpass, etc. These construction projects – particularly ones, which occur, overnight or on weekends – are incredibly disruptive on residential communities. These noisy construction projects are grouped together and have a cumulative impact which must be addressed and mitigated. Is there a less disruptive alignment available?

O010-17 cont.

Cumulative Impacts on traffic must be identified and mitigated with regard to the construction of the Stanford Hospital Expansion project. This project could add significantly to the traffic situation including significant community disruptions, moving of equipment, etc.

"CEQA defines cumulative impacts as "two or more individual effects which, when considered together are considerable," and suggests that cumulative impacts may "result from individually minor but collectively significant projects taking place over a period of time" (State CEQA Guidelines Section 15355)." - Caltrain EIR Chapter 5; entire Caltrain draft EIR.

The Authority should inventory the past, present and potential projects in the vicinity of the proposed route. Some cities have projects which relied on the screening of the trees along the Caltrain corridor as part of their proposal. This brings up issues related to cumulative impact as well as land use compatibility. How will the HSRA mitigate projects which relied on the trees that might be removed during this project?

Comment 17: Guidelines used by HSRA don't match FRA Guidelines

O010-18

In general, the EIR does NOT match the FRA guidelines in the High Speed Train Noise and Vibration Impact Assessment October 2005.

http://www.fra.dot.gov/Downloads/RRdev/final_nv.pdf

Comment Letter O010 - Continued

Comment 18: Cost of Altamont vs. Pacheco doubling…
The cost estimates should only include the costs of the alignments to the meet the high speed rail line that was proposed in the 2005 Program Level EIR. In the case of the Altamont alignments, it should only have the costs of going from the Bay Area to the Central Valley Wye, rather than all the way to Merced. An alternate way to do this would be to compare the total costs of building the system instead of just building the Bay Area to Central Valley alignment. O010-19

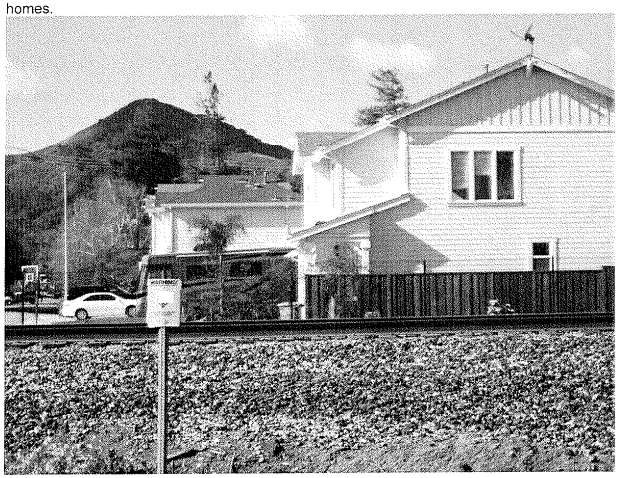
The Program EIR should also discuss the benefits of having only a small incremental investment required to complete Phase 1 service to Sacramento, as compared to the Altamont alignment. O010-20

Comment 19: East of 101 and Leavesley Road Station

The program EIR should evaluate the impacts of alignments between San Jose and Gilroy that are "East of 101", as well as a Leavesley Road station in Gilroy.

Current plans are for trains to run at 220 mph through this corridor (see slide 13, http://www.cahighspeedrail.ca.gov/images/chsr/20090810133659_BoardPrezAug09vprint.pdf). According to the FRA Noise Guidelines, trains at this speed are very loud and the noise is difficult to mitigate because it is low frequency. Very high sound walls (15 feet) would be required and even then it is unclear how much mitigation could be achieved. Given that the program alignments run the center of town, it is very likely that detailed studies will conclude that trains at this speed cannot travel so close to so many O010-21

homes.



Picture of current tracks in Morgan Hill.

In fact, Morgan Hill and Gilroy passed a joint resolution endorsing an east of 101 alignment, at least for the section of the route through Morgan Hill.

Gilroy was informed at a February 1, 2010 meeting with High Speed Rail consultants that the required speeds meant that the alignment would have to curve through the downtown, with significant impacts to current downtown businesses. The city of Gilroy is seriously considering an east of 101 station and the current alternatives analysis process for the San Jose- Merced segment has focused on developing detailed plans for such a station. In addition, city officials have been told that they will need to provide more than 6,000 parking spaces (see Technical Memorandum Station Area Parking Guidance California High Speed Rail Authority March 2010), which would be difficult to accommodate in the downtown area. O010-21

Comment Letter O010 - Continued

Analyze an Altamont alternative with only four tracks in station areas.

The recently released Alternatives Analysis for the San Francisco- San Jose segment determined that only 4 tracks would be required for tracks at intermediate stations, including those for the commuter rail. In conjunction with new guidance from the FRA on track sharing for incompatible trainsets, this may make possible a reduction in the planned number of tracks.

O010-22

Response to Letter O010 (Rita Wespi, CARRD, April 26, 2010)

O010-1

See Response to Comment O004-6.

O010-2

The Authority does not agree that the text needs to be revised. As described in the 2008 Final Program EIR and the 2010 Revised Draft Program EIR Material, property impacts, as defined at the program-level, include potential acquisition, displacement and relocation of existing uses, or demolition of properties. To determine potential property impacts the land uses within 50 ft of either side of the existing corridor or within 50 ft of both sides of the centerline for new HST alignments were characterized by type and density of development.

O010-3

Section 2.2, Revised Land Use Analysis: San Jose to Gilroy, in the Revised Draft Program EIR Material and Section 3.7 of the May 2008 Final Program EIR discussed the analysis of land use impacts. To determine potential property impacts, the land uses within 50 ft of either side of the existing corridor or within 50 ft of both sides of the centerline for new HST alignments were characterized by type and density of development. The study area for land use compatibility, communities and neighborhoods, and environmental justice is 0.25-mile on either side of the centerline of the rail and highway corridors included in the alignment alternatives and the same distance around station location options and other potential HST-related facilities. This is the extent of area where the alignment alternative might result in changes to land use; the type, density, or patterns of development; or socioeconomic conditions. For the property impacts analysis, the study area is narrower as noted above to better represent the properties most likely to be affected by the improvements in the alignment alternatives. As noted in Chapter 3 of the May 2008 Final Program EIR, varying study area widths were used for noise/vibration, biological resources and wetlands, cultural resources, visual, and parks and recreation. Also see Standard Response 3.

O010-4

The noise analysis in the 2005 Statewide Program EIR and the 2008 Final Program EIR (Section 3.4) broadly compare the relative difference in potential impacts among the alternatives. Two basic techniques were used for analysis of the HST: a screening analysis and a more specific analysis of typologies derived from representation HST locations. The screening analysis is based on the methods presented in Chapter 4, Initial Noise Evaluation, of the High-Speed Ground Transportation Noise and Vibration Impact Assessment Guidance Manual, October 2005 (FRA Manual). The FRA methods assumes a generic HST with two power cars and 10 coaches for the screening procedure, Figure 3.4-7 (in the 2005 Program EIR), Typical Lmax Values, which presents the maximum passby noise levels of HST operating at different speeds.

The project-level environmental documents being prepared for each of the HST Sections will include a detailed noise analysis conducted in accordance with Chapter 5, Detailed Noise Analysis, of the FRA Manual. Projected HST noise levels at receivers along the alignments will be calculated using the FRA reference noise emissions of an electric motor unit (EMU) high-speed trainset similar to the trainset design that is likely to be used for the California HST System. See Standard Responses 3 and 5.

O010-5

The FRA uses standards and criteria for assessing the noise impacts related to railroad projects developed by the U.S. Environmental Protection Agency (USEPA) (Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety, March 1974) a precursor to the WHO standards. The same research used for the development of the USEPA standards was also considered by WHO in developing their standards. The standards outlined in the FRA Guidance Manual are

based on community reactions to noise. The standards evaluate changes in existing noise conditions with the added sound from the HST operations. The higher the level of existing noise, the less likely there would be community reaction from additional sound due to the HST operations.

O010-6

The FRA Detailed Noise Analysis methods assume average meteorological conditions for the calculation of train noise. Guidelines for the measurement of existing ambient noise levels require such measurements be conducted only when wind speeds are less than 5 mph and temperature conditions are above freezing. These ambient measurements are the basis of the FRA Noise Criteria used to assess potential impacts at receivers. Therefore the predicted train noise should also represent similar average meteorological conditions. There are conditions that would occur that could affect the propagation of train noise such as wind speed and direction and temperature inversions. However, these conditions would typically affect receivers at distances of several hundred feet or more from the track alignment and could result in either lower or higher noise levels at these receivers.

O010-7

Noise was not a topic area identified by the Superior Court judgment in the Town of Atherton case as needing additional CEQA work. The Authority disagrees that the impact rating should be high from San Francisco to San Jose. The medium noise impact rating from San Francisco to San Jose is based on: (1) grade separations which would eliminate the need for bells at crossings and for the Caltrain trains to sound warning horns as they approach each grade crossing (48 crossings); and (2) lower operating speeds resulting in noise levels similar to the existing Caltrain operations. Because the right of way would be fully secured and completely fenced, people would not be able to access the tracks in unsafe areas or in unsafe ways, eliminating the need for the engineer (train operator) to sound the horn for safety purposes. The existing Caltrain trains are pulled by diesel locomotive. The locomotives are considerably heavier than the HST vehicles and generate a higher level of ground vibration. As a result, the existing ground vibration caused by the Caltrain operations is higher than a high-speed train. The additional frequency of HST operations would contribute to a potential impact which is the basis of the medium vibration impact rating. See Standard Responses 3 and 5.

O010-8

The noise impacts analysis is not an area identified by the Superior Court for further work to comply with CEQA and we note this is a comment on the 2008 Final Program EIR, not the content of the Revised Draft Program EIR. The comment correctly identifies that the text in section 3.4 of the 2008 Final Program EIR (page 3.4-19) indicated medium impacts for HST in the San Jose to Central Valley Corridor and identified speeds in this area as high as 186 mph. There is an error in this text, it should state “Although the HST could reach speeds as great as 186 mph (299 kph) between San Jose and Gilroy, the densities are less than on the San Francisco Peninsula or the East Bay, and the communities would receive considerable benefit from the elimination of up to 24 grade crossings (Statewide Program EIR/EIS, page 3.4-17 (Nov. 2005)). The comment refers to more detailed, project-level information that is being developed for purposes of project refinement and analysis in multiple project-level EIRs. More detailed engineering and design of the HST system has generally involved designing the HST tracks to allow for 220 mph speeds where feasible. Actual speeds that an HST vehicle can travel in a particular area, however, are dependent on alignment constraints, train performance characteristics, acceleration and deceleration capabilities, and passenger comfort criteria. Consistent with the text of the 2008 Final Program EIR, it does not appear that it will be necessary for the HST to travel more than 186 mph on the UPRR alignment through Gilroy and Morgan Hill to achieve the Authority's time goal of 2 hours/40 minutes between Los Angeles and San Francisco. The medium ranking for noise is based on a programmatic methodology, following the FRA Guidance ”High Speed Ground Transportation Noise and Vibration Assessment (FTA 2006),” which identifies numbers of sensitive receptors to potential noise effects of the high-speed train. The FRA methodology does not assess noise impacts at the program level with respect to sound

differentials that may be apparent at different speeds. Project-level noise analysis will examine the effect of train speeds as they relate to sound generation.

O010-9

See Response to Comment O010-17. Refer to Section 3.4 in the 2008 Final Program EIR. The noise mitigation strategies, presented in Section 3.4.5 of the 2008 Final Program EIR describe the measures that will be considered to reduce potential impacts. More detailed mitigation measures and specific noise control measures that would be part of the design and construction of the HST project will be developed as part of the project-level EIR/EIS. See Standard Responses 3 and 5.

O010-10

As part of the project-level EIR/EIS being prepared for each of the HST Sections, a detailed noise analysis conducted in accordance with Chapter 5, Detailed Noise Analysis, of the FRA Manual will be prepared. Projected HST noise levels at receivers along the alignments will be calculated. At those locations where impacts are identified mitigation measures will be identified and the resulting noise reduction with these measures will be presented. The potential to introduce a sound reflective surface that may exacerbate existing traffic noise to receivers will be evaluated.

The 2008 Final Program EIR discusses the general design of noise barriers appropriate for the proposed HST right-of-way. The effectiveness of the noise barriers would depend on the location and height of noise-sensitive buildings, as well as the speeds of the trains. Noise barriers 8 to10 feet tall could be installed where speeds are relatively low (i.e., wheel/rail noise dominates). Higher noise barriers of 12 to16 feet might be used to reduce noise to taller buildings or where speeds are high in noise-sensitive areas. In many locations, noise barriers could be installed on one side of the track only because of the location and proximity of noise-sensitive areas. Chapter 5 of the FRA Manual also provides information on the effectiveness of noise barriers. The necessary height of a barrier depends on factors such as the source height and the distance from the source to the barrier. For example, a barrier located very close to the nearest track need only be 3 to 4 feet above the top of rail to effectively reduce wheel-rail noise, providing noise reductions of 6 to 10 decibels. The height of barriers farther away from the adjacent track, such as on the right-of-way line or for trains on the far track, or for screening many aerodynamic noise sources, must be increased to provide equivalent effectiveness. Otherwise, the effectiveness of the barrier could drop to 5 decibels or less, even if it breaks the line of sight. Where the barrier is very close to the vehicle or where the vehicles travel between sets of parallel barriers, barrier effectiveness can be increased by as much as 5 decibels by applying sound-absorbing material to the inner surface of the barrier. Similarly, the length of the barrier wall is important in its effectiveness. The barrier must be long enough to screen out a moving train along most of its visible path. This length is necessary so that train noise from beyond the ends of the barrier will not severely compromise noise-barrier performance at sensitive locations.

As part of the project-level EIR/EIS being prepared for each of the HST sections a detailed noise analysis conducted in accordance with Chapter 5, Detailed Noise Analysis, of the FRA Manual will be prepared. Projected HST noise levels at receivers along the alignments will be calculated. At those locations where impacts are identified mitigation measures will be identified and the resulting noise reduction with these measures will be presented. Where noise barriers are recommended as mitigation the height, length, and location of the barriers relative to the track centerline and resulting reduction in HST noise will be presented. The potential to introduce a sound reflective surface that may exacerbate existing traffic noise to receivers will be evaluated.

O010-11

Grade separations designed for mixed traffic or freight traffic operating in temporal separation from passenger operations would be designed to accommodate freight operations, including low grades of 1%. The CREATE Railroad Noise and Vibration Model User Guide for the FRA's assessment of railway noise considers many inputs to model noise and vibration, track gradient is not one of them, as many other factors are the determinants of noise

generation from freight operations. Locomotive type (diesel or electric), Type of freight car, track crossovers, percentage of wheel flats and track type are some, but not all, of the model inputs.

O010-12

As noted in Chapter 3.7, Land Use, in the 2008 Final Program EIR, the San Francisco to San Jose corridor would be primarily within an existing active commuter and freight rail corridor and therefore would not constitute any new physical or psychological barriers that would divide, disrupt, or isolate neighborhoods, individuals, or community focal points in the corridor. This resulted in a finding of no community cohesion impacts at the program level. The communities around the Caltrain corridor have developed around the railway; therefore, the existing community development pattern is divided because of the existing railway. The HST system would be entirely grade-separated; therefore, it would not divide communities to a greater level than the existing Caltrain right-of-way. In addition, construction of grade separations where none previously exist would improve circulation between neighborhood areas.

O010-13

General Plan references as cited in the 2008 Final Program EIR were current for the period that studies were conducted for the Program EIR. The project-specific land use analysis will reference current land use and planning documents.

O010-14

As described in the 2008 Final Program EIR and the 2010 Revised Draft Program EIR Material, community and neighborhood impacts, as reported at the program-level, were identified if an alignment alternative would create a new physical barrier, isolating one part of an established community from another and potentially resulting in a physical disruption to community cohesion. Subsequent project-level EIR/EISs and Community Impact Assessments will also identify other potential community/neighborhood related impacts including access and circulation impacts, parking impacts, visual effects, and noise impacts. See also Standard Response 6.

O010-15

A detailed impacts analysis of the addition of the HST service to the Caltrain corridor will be undertaken as part of project level engineering and environmental analyses. It is assumed in the Program EIR that Caltrain and HST would remain within the existing right-of-way at most locations, meaning that trees outside the right-of-way would not be removed, although some trimming would be required for vegetation intruding on the right-of-way. If there is a need to acquire adjacent properties for locations where the current Caltrain right-of-way is not wide enough to accommodate the addition of HST, replacement landscaping would likely be established outside the area required for rail operations. This landscaping would replace that removed for the project. This visual mitigation could partially conceal the right-or-way, either at grade or on an elevated berm. The addition of vines or dense landscaping could conceal the harder surfaces of potential sound walls. As part of the follow-on preliminary engineering and project-level EIR/EIS effort, locations of replacement plantings will be determined per mitigation measures of the project-level EIR/EIS.

In the 2008 Final Program EIR, Appendix 2F, Page 2-F-15, the cross section of the Palo Alto station is shown. There is an underpass crossing beneath the tracks, not an overpass. This configuration is also shown in Appendix 2E, Page 2-E-14, Figure CC-S-1. Table 3.9.1 identifies both pedestrian overcrossings and undercrossings in the Caltrain corridor to allow for either to be employed for grade separations at existing Caltrain stations. The decision of over- or undercrossing and design of pedestrian grade separations would be made during the design as part of the project-level EIR/EIS.

Visual impacts were analyzed for the entire Caltrain corridor, not specific locations. The 2008 Final Program EIR depicts HST running in a combination of at-grade and retained fill through Palo Alto and along most of the Caltrain corridor. Detailing visual resources at the community level, as suggested in the comments, is not appropriate at the program level. This would be analyzed as part of the project-level EIR/EIS.

A photosimulation was provided in the 2008 Final Program EIR of an elevated section passing the Burlingame Caltrain depot. This location

was chosen to show the proposed project in the context of a historic building. The program EIR included additional simulations for prototypical locations throughout its study area, including the East Bay, Central Valley and Pacheco and Altamont Passes. Specific aesthetic viewpoints were chosen to represent typical situations along hundreds of miles of proposed HST corridor. Simulations could be produced for many new locations as part of the project-level EIR/EIS analysis.

Types and routes of transmission lines to supply electricity to the HST depend on detailed engineering to determine where the line would interface with the existing powergrid and where the feeder lines would connect to the railway. The project-level EIR/EIS will review all jurisdictions' policies and propose designs and mitigations with respect to those policies.

The infrastructure for overhead electrification would likely be visible, but its visibility would be low. Consider that San Francisco's Union Square is bounded on two sides by overhead wires to power the City's electric buses. These wires and their poles, over busy city streets, are not highly visible at all and do not comprise part of one's visual memory of Union Square. Where the existing railway corridor is visible from adjacent streets, such as between California Avenue and San Antonio Road, there will be a greater amount of railway infrastructure visible, but the impact is low, as it is complimentary to the existing view. Landscaping to obscure the railway from adjacent uses can be a potential mitigation for identified visual impacts.

Nighttime lighting associated with the HST project would be limited to stations, maintenance facilities and replacement street and pedestrian lighting. Along the peninsula, additional nighttime lighting f would be found at the HST stations, similar to that which exists for Caltrain today, but for double the length along the tracks, as HST requires a 1,400 foot long platform at stations. This lighting would occur where there is already a station and existing station lighting. Detailed station design would affect the effects of the lighting. If lighting is placed under a platform canopy roof, and the canopy runs the length of the station, there is less lighting impact than if there is no canopy and lights are placed on tall poles along the platform.

Light sources from passing trains will be analyzed when the train design is determined as part of the project-level EIR/EIS. Potential sources would be headlights and light from within the train that radiates out the windows. The amount of light from train windows would depend on the glass and glazing/tinting applied to the windows.

Lighting associated with new pedestrian grade separations could vary relative to the design of the grade separation. These impacts will be analyzed as part of the project-level EIR/EIS.

Light effects on individual homes at a specific time of day and year are beyond the scope of a program EIR.

The identification of a "typical" fence design along the HST is premature at the program level. The entire HST right-of-way is described as fenced. This is meant to mean access to the right-of-way would be restricted to only authorized people and machinery. How this is done will be analyzed at the project level, with appropriate materials and designs used relative to the land use adjacent to the right-of-way. This could run from sturdy, low-cost fencing in rural areas to decorative metalwork in areas with a high-level of existing design. Soundwalls would also act as fencing, and they would also be designed to be appropriate to the adjacent land uses.

O010-16

See Response to Comment L003-92. At the time of project-level environmental analyses, additional work will be conducted to identify hazardous materials/waste sites which may or may not include those found in other projects environmental documents since those may have since been remediated.

O010-17

The 2010 Revised Draft Program EIR addresses those topics identified in the final judgment for the Town of Atherton litigation as requiring corrective work under CEQA. Cumulative impacts was not one of those topics. The 2008 Final Program EIR, Chapter 3.17, discusses the potential for cumulative impacts from the high-speed

train in combination with closely related past, present, and reasonably foreseeable future projects across the study area. The San Francisco Bay Regional Rail Plan is one of the projects considered in the cumulative analysis, and it incorporates within its core elements regional railroad commuter services (Capitol Corridor, Caltrain, ACE). As explained in section 3.17 of the 2008 Final Program EIR, the potential for high-speed rail regional overlay is included, along with many other projects. More detailed analyses related to cumulative impacts will be performed during the project-level EIR/EIS analysis, when more detailed project information is available for the selected HST alignment. The cumulative project list will be updated as part of the project-level EIR/EIS. See also Standard Response 3.

The comment incorrectly suggest that the Authority's decision to move forward with the separate planning for an Altamont commuter service and with high-speed rail conflicts with statements by the U.S. Environmental Protection Agency that the Pacheco with Altamont (local service) network alternatives would not likely contain the Least Environmentally Damaging Practicable Alternative. The Authority previously determined to cooperate with regional partners on an independent Altamont Corridor Rail Project, which has a different underlying purpose and need and project objectives. This separate project is not identical in its geographic scope as the Altamont network alternatives studied in the 2008 Final Program EIR. The planning effort that is currently underway is consistent with the general discussion of l use of the Altamont Corridor for regional rail commuter services in the Bay Area Regional Rail Plan.

A detailed impacts analysis of the addition of the HST service to the Caltrain corridor is currently underway as part of project level engineering and environmental analyses. It is assumed in the Program EIR that Caltrain and HST would remain within the existing right-of-way at most locations, meaning that trees outside the right-of-way would not be removed, although some trimming would be required for vegetation intruding on the right-of-way. If there is a need to acquire adjacent properties for locations where the current Caltrain right-of-way is not wide enough to accommodate the addition of HST, replacement landscaping would likely be established outside the area required for rail operations. This landscaping would replace that removed for the project.

O010-18

The Authority disagrees. The 2008 Final Program EIR followed the appropriate methodology for a program-level analysis. See the Response to Comment O010-4. The screening analysis used in the 2005 Statewide Program EIR and the 2008 Final Program EIR was based on the methods presented in Chapter 4, Initial Noise Evaluation, of the High-Speed Ground Transportation Noise and Vibration Impact Assessment Guidance Manual, October 2005 (FRA Manual). See also Standard Response 3.

O010-19

Cost information was not an area identified by the Superior Court for further work to comply with CEQA in the Town of Atherton judgment. We note that the Court concluded that cost information was not required to be included in an EIR, but considered this issue and found the cost information in the EIR to be adequate and fair. A cost discussion was provided in Chapter 4 of the 2008 Program EIR, and augmented by Appendix 4A and Appendix 4B. Capital costs included the cost of new grade separations. The costs for modification of existing grade separations will be considered as part of project-level information for the network alternative selected by the Authority board. In order to provide an accurate and consistent comparison of network alternatives in the 2008 Final Program EIR, costs (and other factors) were developed using common end points in the Central Valley.

O010-20

The Authority does not understand this comment. Please see Response to Comment O010-19. The Program EIR was prepared in consideration of the full HST system. Potential impacts of the phasing of the HST system will be evaluated at the project level.

O010-21

The Authority appreciates the comment. Site specific noise impacts during construction and operation of the HST to sensitive receptors will be part of subsequent project-level environmental documents. See Standard Response 5.

O010-22

Planned operations along the four-track sections in the San Francisco-San Jose Caltrain corridor are not equivalent to operations elsewhere in the HST network. The Caltrain corridor is unique as it is owned by a public agency, the PCJPB. The majority of rail traffic on the line is passenger service. Caltrain is replacing its existing passenger cars and locomotives with equipment compatible with HST trains. Freight service is minimal and can be operated not to interfere with planned Caltrain or HST service.

In the East Bay, the HST may run adjacent to an existing, privately-owned railroad, such as the UPRR, but the HST and adjacent railway would not share tracks or facilities. This leads to a six-track cross section at HST stations where the HST requires four tracks (two for through trains and two for stopping trains) and is adjacent to a freight railway which may have any number of tracks. In the case of downtown Livermore, for example, there are two freight tracks where a potential station was analyzed, resulting in a six-track cross-section. As the HST would be constructed outside the right of way of the existing freight railway, there is no opportunity to share facilities in any way, regardless of new guidance from the FRA on track sharing. The HST and private railway are separate entities.

Comment Letter O011 (Jim Lazarus, San Francisco Chamber of Commerce, April 23, 2010)

O011

SAN FRANCISCO
CHAMBER OF COMMERCE *Where smart business starts.*

APR 2 8 2010

April 23, 2010

Mr. Dan Leavitt
California High Speed Rail Authority
925 L Street Suite 1425
Sacramento, CA 95814

RE: Bay Area to Central Valley Revised Draft Program EIR

Dear Mr. Leavitt:

The San Francisco Chamber of Commerce, representing over 1,500 local businesses, strongly supports construction of California's high speed rail project. We have closely followed the program development and the environmental review process and urge the Authority to issue a final revised EIR.

The preferred alternative route from San Francisco to San Jose along the CalTrain corridor and through the Pacheco Pass provides not only the best route from a passenger point of view, but minimizes impacts on the environment. It minimizes impacts on wetlands, avoids the need for another Bay crossing, utilizes an existing rail corridor, and as indicated by the vote for Proposition 1A, has strong public support in San Francisco, San Jose and from the vast majority of Peninsula residents. O011-1

The Pacheco Pass/CalTrain alignment maximizes ridership by minimizing travel time between San Francisco and Los Angeles. Intermodal, including airport connections, are greater with this route. Partnering with CalTrain, use of the Gilroy to San Francisco existing rail route will result in an electrified, grade separated system for both high speed rail and CalTrain along the Peninsula. The overall environmental improvements for nearby residents, businesses and vehicle users along the Peninsula will be significant.

We urge the Authority to adopt this Revised Draft Program EIR.

Sincerely,

JIM LAZARUS
Sr. Vice President

235 Montgomery St., 12th Flr., San Francisco, CA 94104 • tel 415 392 4520 / fax 415 392 0485

Response to Letter O011 (Jim Lazarus, San Francisco Chamber of Commerce, April 23, 2010)

O011-1

The comment expresses support for the Pacheco alternative.
Comment acknowledged.